THE UNIVERSITY OF HULL

Post Contractual Governance of Public-Private Partnerships (PPPs): An Institutional Analysis of a Ugandan Case

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by

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DECLARATION

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ABSTRACT

There are significant indications that Public-Private Partnership (PPP) model of organization will continue to gain prominence and usability in the provision of public services and in the development, operation and maintenance of public infrastructure in Uganda. In attempts to guarantee success of the model, public actors have placed emphasis on improving the set up processes and paid attention to decisions that precede PPP operationalization. However, extant evidence suggests that despite the emphasis, pre-contractual decisions and determinations seldom fit with the complex post contractual realities that point to a mismatch between the precontractual assumptions and implementation realities. This poses serious risks to long term success of PPPs. In this regard, and as a response to calls to move the attention to 'second generation' concerns relating to the governance and regulation of PPPs, this research was undertaken to understand, from a Ugandan context, the nature of post contractual PPP governance challenges and how actors respond.

Since PPPs are primarily products of institutions, this investigation utilized the institutional theory lens and the empirical context of a twenty year electricity distribution concession in Uganda. The thematically analysed evidence is drawn from 31 interviews with past and present individual actors from the operative, policy, regulative, and consulting organizations directly involved with and/or familiar with this concession. The interviews are complemented by a review of exclusively accessed and publicly available documents.

The findings indicate that most of the post contractual PPP challenges are policy and organizational in nature such as differences in courses of action and priorities, unclear identity and role of public sector partner, unclear responsibility of the service value chain actors, institutional supremacy contests, perceptions of contractual inequity, and operational interference from external stakeholders. As responses, the findings indicate the primacy of socially constructed and coercive isomorphic strategies adopted by the actors including institutional complementation, enforcement of contractual safeguards, government and development partner's sector support and stakeholder education. Contributions at three levels including theoretical, methodological and praxis are discerned and areas for further study suggested.

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LIST OF ABBREVIATIONS

BEL	**Bujagali Energy Limited**
BOT	**Build Operate Transfer**
CAA	**Civil Aviation Authority**
CCT	**Cross City Tunnel**
CDC	**Commonwealth Development Corporation**
CSBAG	**Civil Society Budget Advocacy Group**
CSF	**Critical Success Factor**
DBFOMT	**Design Build Operate Maintain Transfer**
DBFOT	**Design Build Finance Operate Transfer**
EC	**European Commission**
ERA	**Electricity Regulatory Authority**
EUL	**Eskom Uganda Limited**
HIPC	**Highly Indebted Poor Countries**
HM	**Her Majesty**
ICT	**Information Communication Technologies**
IFC	**International Finance Corporation**
IMF	**International Monetary Fund**
IPPP	**Institutional Public Private Partnership**
KCCA	**Kampala City Council Authority**
KSF	**Key Success Factor**
MIGA	**Multilateral Investment Guarantee Agency**
MoEMD	**Ministry of Energy and Mineral Development**
MoFPED	**Ministry of Finance Planning and Economic Development**
MW	**Mega Watts**
NDP	**National Development Plan**
NPM	**New Public Management**
NSE	**Nairobi Securities Exchange**
NSSF	**National Social Security Fund**
OM	**Operate Maintain**
PCGC	**Post Contractual Governance Challenge**

PCRM	**Post Contractual Response Mechanism**
PERD	**Public Enterprise Reform and Divestiture**
PFI	**Private Finance Initiative**
PMO	**Project Management Oversight**
PPP	**Public Private Partnership**
PSC	**Public Sector Comparator**
PSCA	**Public Sector Contracting Agency**
RVR	**Rift Valley Railways**
SEALL	**Sustainable Energy for All**
SPV	**Special Purpose Vehicle**
STEI	**Science Technology Engineering Innovation**
TCE	**Transactional Cost Economics**
TPS	**Tourism Promotion Services**
UEB	**Uganda Electricity Board**
UEDCL	**Uganda Electricity Distribution Company Limited**
UEGCL	**Uganda Electricity Generation Company Limited**
UETCL	**Uganda Electricity Transmission Company Limited**
UK	**United Kingdom**
USE	**Uganda Securities Exchange**
VfM	**Value for Money**
WEF	**World Economic Forum**
WENRECO	**West Nile Rural Electrification Company**

CHAPTER 1: INTRODUCTION

1.1: Chapter Introduction

This research explores the post contractual governance of the modality of Public Private Partnership (PPPs) in Uganda. Specifically, the study discerns the poorly understood post contractual governance challenges confronted by actors in the implementation of long-term PPP arrangements and delineates the strategies utilised to respond to them. This opening chapter provides the rationale for the research from a personal and literature viewpoints, introduces the research question and objectives, highlights the methodology and the investigation context, presents the research contributions, and lastly outlines the thesis structure.

1.2: Motivation for the Study

1.2.1: A Personal Standpoint

This section reflects upon my personal motivation to investigate the topic of PPP governance from a developing country perspective. Uganda is my country of birth and I follow closely many development transitions in the country's political, economic, social, legal themes. In the context of this investigation some observations are more insightful than the others. In this regard, the observations on the country's transition to economic liberalisation are particularly more informative. This transition was particularly triggered when Uganda, like most of the other developing countries, agreed to liberalize the economy as part of the conditions following the decision to enter into the Highly Indebted Poor Country Debt Relief Programme (HIPC) initiated by the World Bank and International Monetary Fund in 1996 (Harper, 2015). Since then, and in many respects, the country's landscape has significantly transitioned with institutional, organisational, business and social changes becoming part and parcel of Uganda’s development reality. Initially starting off through widespread privatisation of state enterprises and later to various forms of engagements with the private sector, the country has undertaken a number of experimentations with private participation to improve public service delivery in bid to foster development. The recent and currently growing phenomenon has been the adoption of Public Private Partnerships (PPPs).

As PPPs are heralded by influential promoters to revolutionise how public services are financed and provided, it is no surprise that partnerships drew considerable attention from policymakers and other public and private actors in Uganda. At the start of this research project in 2016, a number of PPPs were being implemented across number of sectors. These PPP projects were either initiated by the government or were applied as a preferred method (in some instances condition) by the multilateral actors supporting a particular sector(s) of the economy. But it is evident that even with all the practical interest, institutionalisation of PPP has lagged behind and is only at nascent stages. Policies and Legal frameworks have only recently been put in place to formalise and entrench PPPs. Examples of frameworks are the Public Private Partnership Framework Policy (2010), the Public Private Partnership Guidelines for Local Governments (2010), and most recently the enactment of Public Private Partnership Act (2015).

With my educational background in business management coupled with professional experiences in management of profit and non-profit organisations as well as in Higher Education, I followed the country's progress on PPPs as well as the Global PPP area with curious interest. As many aspects of PPP content and contexts remain obscure in Uganda the questions of who becomes responsible and accountable for public services in the context of this model were the first to form in my mind. These questions became a starting point to my thinking of the research project. These questions were later abstracted to consider the broader question of governance and the focus on the phase involving actual operations was an opportunity to unpack important workings of the model in a country with little experience involving private sector in the direct delivery of public goods and services. The research only materialised when I was accepted into a PhD programme at the University of Hull. This is when further refinements of the idea into specific researchable objectives and questions, as outlined later in the chapter, happened.

1.2.2: A Literature Perspective

Across the globe, cooperation involving the public and private sectors for the delivery of public services is nothing new (Hodge & Greve, 2007; Kakabadse et al., 2007; Reeves, 2013). These collaborations have been adopted across geographic scopes in developed, transitional and developing parts of the world (Slater, 2001; Hodge & Greve, 2007; Al-Saadi & Abdou, 2016; Babatunde et al., 2016; Dempsey et al., 2016), and applied in diverse policy sectors (Fischbacher & Beaumont, 2003; Reeves & Ryan, 2007; Yuan et al., 2009). The collaborations take different forms, such as, contracting out, Public procurement, agencification and Public Private Partnerships (PPPs) (Slater, 2001; Ulibarri, 2015; Dempsey et al., 2016).

In particular, PPPs have gained popularity and iconic status as a visible pillar of contemporary public management practices (Weihe, 2006; Hodge & Greve, 2010a; Wettenhall, 2010). Rationalisations for the increasing adoption of PPPs have ranged from fiscal and efficiency considerations in the delivery of public services to acknowledgment of power and influence of contemporary society. But relative to other modes of collaborations, the contextual nature of PPPs makes them complex and contradictory at both the development and implementation stages (Trebilcock & Rosenstock, 2015) (De Schepper et al., 2014; Van den Hurk, 2016). The diverse political, stakeholders, and technical considerations are some of the drivers of complexity that propagate uncertainty and nature of risk perception in PPPs (South et al., 2015; van den Hurk & Verhoest, 2015). This inherent nature of PPPs has implications on the effectiveness of governance mechanisms at different phases (South et al., 2015). In this PPP environment, formal instruments (such as contracts) dominate as governance systems, amidst caution. The inherent incompleteness, as a consequence of inability to anticipate and provide for all uncertainties at the initial contracting phase makes contracts unlikely and less powerful enough to sustain the rationality throughout the full length of the PPP (Sadran, 2004b; Johnston & Gudergan, 2007a; South et al., 2015). Yet, PPP success or failure is largely determined by how well the partnerships are managed (Mistarihi et al., 2013a; Sabry, 2015; Fombad, 2016). South et al. (2015), for example, note that the complicated governance arrangements of PPPs are at the heart of unpredictable outcomes. Similarly, Johnston and Gudergan (2007a) as well as Skelcher (2010) suggest that appropriately designed governance mechanisms creates necessary constraints on partner behaviour to protect public interest.

Therefore, contractual incompleteness tests overall institutional governance capacity to anticipate, plan for contingencies and conduct monitoring and enforcement of long-term collaborations. So, aware that shared commitment to PPPs among partners does not necessary mean shared expectations and goals (Skelcher et al., 2005; Johnston & Gudergan, 2007b; Goldstein & Mele, 2016), management of self-interest behaviour among core partners and other stakeholders in multi-pronged complexity surrounding and encompassing PPPs is paramount.

This study shines light in this area arguing that how actors manage (in particular) the post contractual governance challenges that arise is a key determinant of PPP success or failure. But at the same time the complex nature of PPPs suggests that actors must continuously consider the appropriate response strategies. Moreover, this study responds to a call for scholarship to turn to second generation set of questions putting the governance and regulation of PPPs at the forefront (Hodge & Greve, 2010a). These personal and theoretical stimuli are further elaborated in chapters two and three that follow.

1.3: The Central Concern and Primary Objectives

As noted in the preceding section and as further elaborated in chapter two and three, the modality of PPP is generally described by scholars and practitioners as a complex and often problematic undertaking. Both the pre-contractual and post-contractual phases are usually complex and occasionally fraught with difficulty. It is explicit in the review of the extant body of international PPP literature that many of the challenges emerge at the post-contractual phase of the project and relate to governance (Weihe, 2008). It is also variously argued that the realities of the underlying complexities and uncertainties in the PPP modality become foregrounded at this phase of the PPP lifecycle. In addition, this phase incorporates ongoing interactions between partners and other stakeholders on many issues including what, where, when and how each partners and different stakeholders contribute to the PPP.

The unique complexity at the post-contractual phase of the PPP emerges mainly from pre-contractual underestimation of actors and their impact as well as evolving divergences in interests, perceptions, decision approaches, and resources to be input in the partnership. As has been demonstrated, at the post-contractual phase, the reality of different partner's dedication to their own procedures, perceptions, strategies, rules and interests become advanced and actively pursued. In so doing, different partners develop differing rules, agree to carrying different value systems and work rhythms, different accountabilities and concerns, different objectives and interests (Huxham et al., 2000; Klijn & Teisman, 2003; von Malmborg, 2003; Mann et al., 2007). The details of objective differences are important as they foreshadow the sources of challenges. Researchers argue that such challenges account for the difficulties of PPPs achieving their goals, refrain from partnerships and in some instances premature termination. Most pertinently, the complexity from inherent and emergent differences among partners have profound bearing on the way PPPs are governed, the way problems are resolved, strategic decisions are determined and thus on the overall success of the PPPs (Weihe, 2008).

Therefore the assumption here is that success or failure of the PPP highly relate to how effectively actors in the partnership address issues of concern to partners and stakeholders that emerge to challenge the set assumptions and commitments at the post-contractual phase. These relate to differing partner interests, the post contractual risks, partnership performance, accountability and transparency, and public sector expertise and competence. For these, it is critical to understand how the issues emerging in the course of PPP implementation are experienced and responded to by the actors involved in the public private partnership and what lessons can be learned and recommendations made.

In Uganda, research on the governing the post-contractual phase of the PPPs, to the best of the researcher's knowledge, has not been conducted. The limited studies available, mostly of a professional rather than scholarly nature, focus on specific issues, mainly pre-contractual considerations, such as the feasibility of the modality in the socio-economic, political and regulatory context of Uganda. While others are promotional of the model and focus on projects the possibilities and 'successes' of the projects under implementation. This is in spite of the fact that there are PPPs arrangements, though scanty, that are past the half way marks of their tenures. This deficiency in PPPs scholarship represents a significant gap in the existing PPP literature. Thus in contributing to filling this central gap, this study seeks to answer the following overarching question: How do PPP actors experience and respond to post-contractual PPP governance challenges in Uganda?

In that regard, the overall aim of this investigation is to draw from the direct experiences and perceptions of the actors involved in PPP project in order to discern the post contractual governance challenges and strategies utilised respond to these challenges. In order to answer the research question, the author set the following three interrelated main research objectives:

First, to analyse the current and retrospective experiences and perceptions of individual actors regarding the difficulties faced during the operation stage of the public private Partnerships from a perspective of a specific Uganda PPP project.

Second, to examine the current and retrospective experiences of individual actors on the strategies adopted by representative actors to respond to difficulties faced.

Third to delineate the lessons learned and make recommendations for governance and regulation of PPPs at the post contractual phase.

1.4: Research Methodology

In light of the central concern and the specific objectives of this investigation, a qualitative approach was employed. Since the study utilises the subjective experiences, opinions and perceptions of individual actors, the appropriateness of qualitative methods to enable the collection and analysis of such data was determined. Two main data collection approaches of semi structured interviews with purposively identified individuals and document analysis were employed. The relevant individual actors were reached through a snowballing technique. The interview transcripts and documents were thematically analysed in line with the research questions and aided by qualitative data analysis software (NVIVO 11). The methodology chapter systematically elaborates on the specific processes and actions undertaken in the conduct of the investigation ranging from data gathering, data management to data analysis protocols.

1.5: Literature and Empirical Research Context

In this study both the literature and empirical research contexts are important and inform the study. In regard to the literature, both the global policy and academic constitute the context. Academically, while the PPPs discourse is now wide spread, strikingly varied levels of maturity in regard to the theoretical development across different regions of the world is evident. These global variances in the level of theoretical development significantly shape the conceptualisation of this study. In particular since most of available literature resources are generated from western experiences - mostly European countries.

The international policy arena provides a further literature context as international public agencies such as the World Bank, International Monetary Fund, United Nations and multilateral organisations have significantly influenced PPP diffusion and shaped the discourse on PPPs across the globe. In essence, this study acknowledges the influence conceptual context of PPP. The literature review chapter better demonstrates this context.

In regard to the empirical context, Uganda provided the site for this investigation. Other than being a familiar country context to the researcher, Uganda has peculiar and important factors that are useful to the central concerns of this investigation: 1) the country has demonstrated enthusiasm in PPP adoption and tested out Private Participation arrangements in sectors that deliver the much needed infrastructure and public services. This enthusiasm is elaborated in the empirical contextual description (in chapter three), 2) as a nascent PPP adopter, Uganda's sectorial and PPP lifecycle experiences provide enriching insights on this global phenomenon. These insights are achieved as the findings are juxtaposed with the research and theory from mature and experienced PPP model users. The interpretation of the findings in the context of extant research and theory is undertaken in the discussion (in chapter eight) as well as in the final chapter (chapter nine). These make the country an interesting context to gain important insights.

1.6: Research Contributions

The findings of this study constitute some peculiar and reinforcing contributions to the extant body of knowledge on PPP generally but more specifically on the governance of PPPs. In this study these contributions are organised in three categories including conceptual and theoretical, methodological and practice.

1.6.1: Conceptual and Theoretical Contributions

In regard to the conceptual and theoretical contribution, first and foremost by focusing on the post contractual phase of PPP, this study has contributed in moving the attention to governance and regulation issues (or as Hodge (2010) put it, to the 'second generation' discussion) that a number of scholars have suggested. This proper management of this phase of PPP lifecycle is argued to be more significant for success. Secondly, with regard to understanding the challenges faced by PPPs, this study has reinforced the significance of differences of institutional logics that shape actors behaviors in the partnerships. Thirdly, this study has established transcendent effect of differing institutional logics of public and private actors. In other words, the supposed reconciliation of interests through execution of mutually agreed contract at the precontractual phase does not foreclose self-interest behavior among actors. As such, it has been reinforced that a contract is insufficient as a control instrument for PPPs. And fourthly, this study has reinforced the pre-contractual underestimation of post contractual complexity of PPPs. In particular, revealed that in the context of high interdependences such as in integrated value chains, the web of necessary interrelationships cannot be fully determined and the effects of different actors is difficult to estimate.

In regard to institutional theory contributions are made. First, this study has provided support to assumptions that external and internal organizational pressures shape actors goals and directions – and that these pressures relate to policy, regulatory, organizational, and political issues. Secondly, in the specific context of this study, actor's response to challenges faced are mostly socially constructed and coercively isomorphic which is consistent with assumptions of sociological and organisational strand of institutional theory (DiMaggio & Powell, 1991; Olsen, 2007). This study has also revealed that in the context as such in this study, the influence of normative, mimetic isomorphism and established culture in shaping responses is low. In other words, where there is high complexity and uncertainty, actors tend to socially produce and reproduce responses rather than comply with the standard set of rules, benchmark or follow long established routines.

1.6.2: Methodological Contributions

As a methodological contribution, to the best of the researcher's knowledge this study is the first to use a phenomenological or interpretive approach to explore the relative experiences, opinions and perceptions of actors directly involved regarding the post contractual PPP governance issues in Uganda. Before this investigation, the available knowledge and scant scholarly efforts about Uganda's PPPs majorly focus on the PPPs macro-level government policy considerations relating to model adoption, issues of formation and financing arrangements. Moreover, the study employed an unusual combination of data collection approaches of semi structured interviews and documentary analysis - as opposed others that only utilize documentary analysis. By utilizing in-depth interviews as the principal data gathering approach, the researcher undertook a qualitative study that enabled to capture experiences and perceptions that revealed unknown and concealed realities in this context that would have been unlikely with a different approach.

1.6.3: Practice Contributions

In regard to praxis contributions, this study delineates important lessons on Post-contractual Governance Challenges (PCGCs) and Post-contractual Response Mechanisms (PCRMs) and makes specific policy and managerial suggestions for three important categories of actors: government, development agencies/partners and PPP managers and executives. Some of the important policy level suggestions derived from the findings include the need for government of Uganda to create clarity on institutional frameworks guiding PPP implementation; clarify the role of sector regulatory vis-a-vis public sector contracting agencies in practice and institutionally empower each accordingly; need for the government of Uganda to improve the credibility and capacity of Public Sector Contracting Agencies (PSCAs). For development agencies some of the key suggestions made include; the need to better understand the domestic context and to transcend the emphasis on PPP promotional rhetoric to addressing actual and emergent realities of implementation. For PPP executives and managers, some of the suggestions made include operational actors need to be flexible to adapt to realities and to focus on partnership outcomes or high order rather than on functional partnership outputs.

1.7: Thesis Structure

The thesis is comprised of nine chapters and the rest of the chapters are arranged as follows:

Chapter two presents the review of literature on the modality of Public Private Partnerships (PPPs) as an instrument of public service delivery. Specifically, this review unpacks the concept of PPPs and the important post contractual governance and management facets and issues in extant literature. In addition, the review locates the central concern of this study within the extant body of PPP discourse.

Chapter three focuses on the empirical context of this study. It highlights the national context for the investigation. Specifically, the chapter provides a brief coverage on PPPs in the developing country contexts including highlighting the model's growing adoption, the nature of extant challenges, and a presents the status of implementation of the PPP modality in Uganda. In addition, the chapter elaborates on the key rationales for adoption of PPPs in Uganda and highlights some of the important and prevailing policy, legal and institutional frameworks shaping the PPP practice.

Chapter four discusses the theoretical lens of this investigation. In particular the elements of institutional theory (both old and new institutional theory assumptions) that inform the theoretical framework used to explore the empirical case study.

Chapter five details the methodology of this study. It includes the presentation and rationalization of the choices made in the design of the investigation and the operationalization of processes in collecting and analyzing the data. The chapter also introduces the applicable literature on qualitative and case study research which are the cornerstones in the implementation of this study. In addition, this chapter discusses the specific project context of this investigation.

Chapter six is the first of the two data analysis and findings reporting chapters. This chapter provides answers to the question on the post contractual governance challenges from the view point of qualitative interviews with key past and present individual actors of operating, regulative, policy organizations, and independent consultants familiar with case study project. Specifically, the chapter presents and evidences the thematically analyzed findings of difficult issues facing and faced by the partnership from the view point of actors direct experiences.

Chapter seven is the second data analysis chapter and presents the thematically analysed strategies utilized by the PPP actors to respond to the challenges. Specifically, the chapter presents and evidences actors' use of institutional complementation, enforcement of contractual safeguards, government and development partner's sector support and stakeholder education as response mechanisms to emergent challenges.

Chapter eight includes a discussion of the key findings in **chapters six** and **seven**. The important findings are summarized and interpreted in the context of extant body of research on PPP governance and key assumptions of institutional theory. Important assertions are made to bridge some identified gaps between empirical findings on one hand and the body of extant research and theoretical assumptions on the other.

Chapter nine provides the conclusions and delineates the important contributions of the investigation.

1.8: Chapter Summary

This chapter has introduced the research topic and provided an overview of the rationale for the study and its contextual setting. The chapter has presented the main research agenda incorporating the rationale, research question and objectives. Additionally, the chapter has provided brief of the methodology, the research context, the summary of contributions made, and laid out the structure of the thesis. The next chapter presents the review of literature on the topic and locates the central concern of this study in the extant body of knowledge.

CHAPTER 2: LITERATURE REVIEW

2.1: Introduction

This chapter presents the review of literature on the modality of Public Private Partnerships (PPPs) as an instrument of public service delivery. Specifically, this review unpacks the concept of PPP and the important governance and management facets and issues in extant literature. The chapter also locates the central concern of this study – the scantly addressed post-contractual challenges and the response strategies utilized by the actors – within the extant body of PPP research and knowledge.

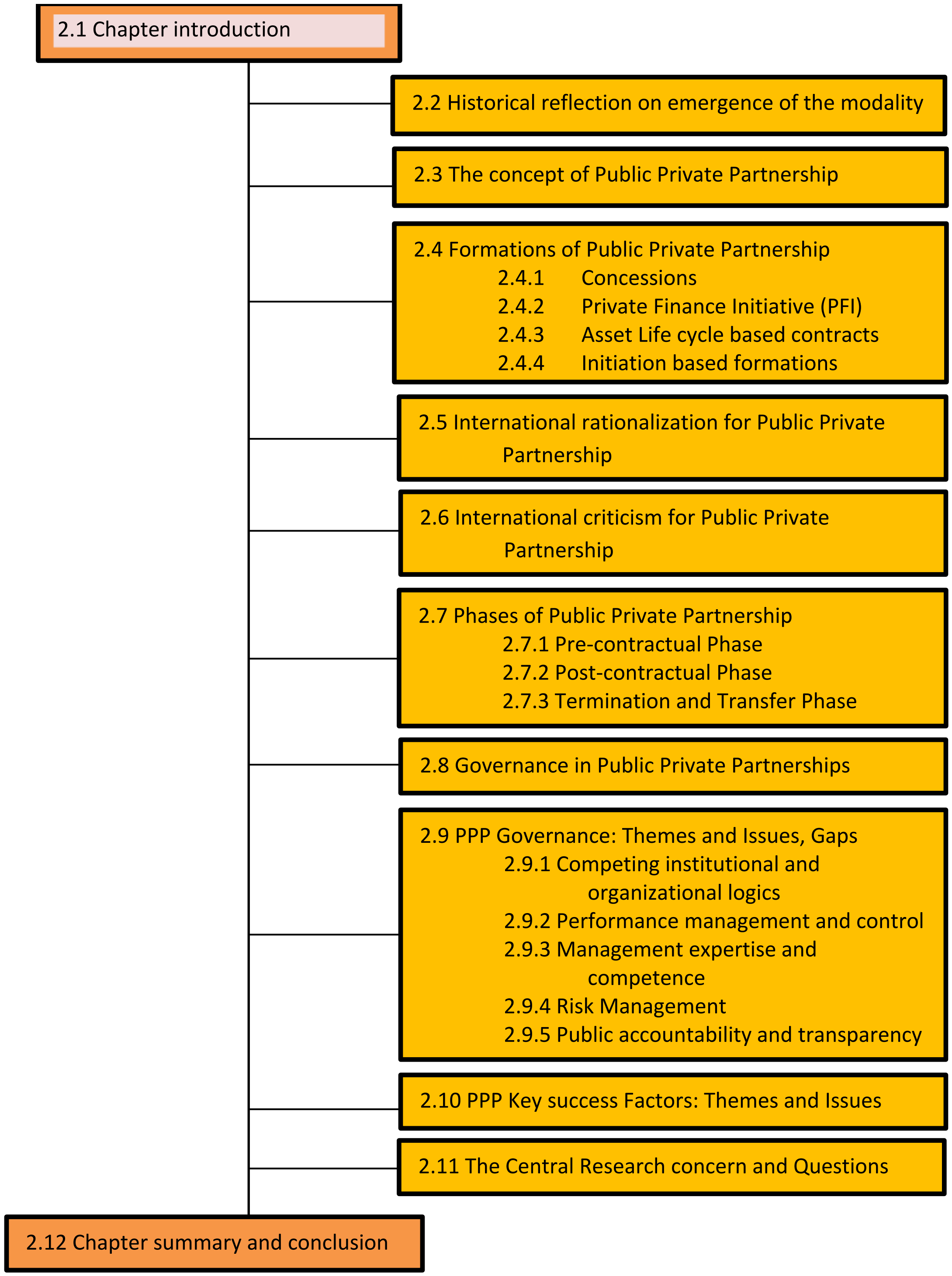
In conducting this literature analysis, this study acknowledges that the attention to PPP as a modality of public infrastructure and service provision and the focus on its governance related issues only constitute part of the ongoing discourse on the broader phenomenon of cross sector collaboration in public services provision. In this regard, the review does not claim an all-encompassing consideration of the extant literature on cross sector collaboration from all disciplinary, research and theoretical perspectives in which the current scholarly address of the field has been made. In instead, early literature delimitation decisions were made to inform the literature search. In delimiting, particular streams of literature that provide useful conceptual and theoretical basis for this investigation have been given primacy.

First, since this study is concerned with the governance of PPPs at the post contractual phase, the literature relating to the management arrangements, partner interrelationships, and governance strategies and instruments was prioritized. In other words, collaboration governance and management related literature was accorded major analytical attention.

Secondly, the search and analysis emphasized literature addressing the PPP realities and issues akin to the post contractual phase. In other words, main attention is placed on scholarly output addressing implementation or operation stage issues. Thirdly, although only English language literature is appraised for this study, deliberate efforts were made to diversify the geographical scope of sources. In this regard, despite the evident disproportionality in the availability of PPP research in different parts of the globe, a thorough consideration of extant international literature is attempted.

This literature analysis is organized in two chapters and several subsections. This chapter focuses on the conceptual and theoretical perspectives of the modality of Public-Private Partnership as instrument of public infrastructure and service delivery. Particularly, the chapter articulates the emergence of Public-Private Partnership by tracing its historical context and its diffusion to most developing countries. It then discusses the diverse conceptualization of PPP, the different formations, and the lifecycle phases of operationalization it takes. This is followed by discussion on the important features of PPPs, the global rationale for their employment and the pitfalls. Thereafter a thematised discussion of the important governance challenges and specific issues faced by actors at the post contractual phase of the partnerships, as well as the critical success factors. The chapter concludes with a summarised restatement of the central concern and the main research objectives informing the study. The Figure 2.1 below graphically illustrates the chapter organisation.

Figure 2 1 Outline of the Literature Review Chapter



2.2: Historical Reflection on the Emergence of PPP Phenomenon

The emergence of PPP as a theoretical concept and as the practice has been a focus of some scholarship for a while and attracted diverse articulations of its reality (Wettenhall, 2005;

Hodge & Greve, 2009; Klijn, 2010; Wettenhall, 2010). Being that the PPP comes into play to provide public services through and/or with private sector actors, PPPs more generally seen as a government policy approach to contracting out of the public or government activities (Urio, 2010). The advent PPP as a practice has been traced to several decades by some scholars (Wettenhall, 2005; Wettenhall, 2010) but from a relatively recent consideration PPP as both concept and a practice can be traced to the advent of New Public Management of the late 1980s and 1990s (Grimsey & Lewis, 2004b; Wettenhall, 2005; Yescombe, 2011). The agenda of reform in the public sector through infusion of private sector mentality and competencies is the flagship argument for New Public Management approach to improving efficiencies in the public service. As Urio (2010:32) observed, *'... contracting out has become, since the beginning of the 1980s, part of the vast NPM programme and of its major explicit goal, i.e. the reform of the state and the improvement of its efficiency'*.

PPP is wider than simply introducing the private sector to offer public service or infrastructure, it is clear that the proliferation of the PPP denotes a significant movement in government policy. A policy shift to increased utilization of the private sector in the provision of economic and social infrastructure and services such as education, health care, water and sewerage, electricity, roads, bridges among others. Prior to the shift, and as Wettenhall (2005) notes, before the 1980s and 1990s the interaction of the government or state was only characterized by three forms including commercial exchange, coercion and gift. In other words, the private sector only got involved if there was something of commercial value to be offered or received, out of forceful means through state use of its instruments of coercion or if the state offered or received a gift from the private actor. Among this, coercion and gifting were predominant frameworks of interaction between the governments and the private sector (Wettenhall, 2005).

However, following the New Public Management Movement, from the turn of the decade 1980, governments of Western Europe, in particular, actively sought for mechanisms involving more commercial exchange as opposed to coercion and gift exchanges (Wettenhall, 2005). In the United Kingdom for instance since 1992 government has utilized PPPs as an important strategy for the delivery of modern, high quality asset based services, and for promotion of the United Kingdom's competitiveness agenda (Li & Akintoye, 2003; McQuaid & Scherrer, 2010; Ball, 2011). While the governments in Western Europe placed emphasis on the 'marketisation' of the private sector (Broadbent & Laughlin, 2003), the New Public Management movement emphasized an increased utilization of the practices borrowed from the privates sector as well as the on the measurability of the products and services provided by the public sector (Hood, 1995). In other words, as it is in the private sector, the NPM argued for the need for increased measures of efficiently including accountability for resources and results of public sector operations. In pursuing NPM ethos, and along with the belief that these were already inherent ethos in the private sector, working with the private sector was encouraged. As Grimsey and Lewis (2004b:54) observed, 'PPPs are one exemplification of these trends, and of changing markets for public services, in that they allow for public services to be provided by public and private sector bodies working in a partnership'.

In additions to United Kingdom, which is arguably one of the earlier adopters, consistent, and widespread user of the PPP arrangement through its Private Finance Initiative (PFI), many other countries in Europe including Germany, Netherlands, France, are increasingly utilizing PPPs (Li &

Akintoye, 2003). But in contrast to western European countries and most of the other industrialized countries, governments in developing countries only began experimenting with private sector involvement in public service and infrastructure delivery at the end of the 1990s (Jamali, 2004a). Triggered by disintegration of the economic and social infrastructure, often, as an aftermath of violent political conflict and some post-colonial public management systems, the recovery attempts and economic transition of many developing countries towards the free market system naturally incorporated some form of private sector involvement. The private sector involvement was part of the pro-market agenda encouraging the free enterprise and the application of market tools as well as policy attempts at reversing government dominance. In particular, in the 1990s most developing countries faced severe economic difficulties as such the persistent budget deficits became the principal driver for reforms that opened room for the development of PPP initiatives (Urio, 2010).

Although this historical exposition does not detail the historical antecedents for the neo-liberal movement that shaped the NPM and subsequently the adoption of PPPs in western European countries (and it is not intended to do so), it is clear that by the 1980s and 1990s, the PPP emergence in Western Europe was mostly driven by these neoliberal ideals. The context of adoption of PPPs varies from that in developing countries that is mostly characterized by the need to overcome acute budget deficits in the provision of public services and infrastructure and PPPs being a one of the defused approaches to respond to such difficulties.

2.3: The Concept of Public Private Partnership

Public Private Partnership is a diversely articulated concept. No single definition of Public-Private Partnership attracts overall acceptance and use across scholarly and practitioner context (Brinkerhoff, 2002; Wettenhall, 2003; Sedjari, 2004; Koppenjan, 2005b; Weihe, 2005), yet there are still limited definitions available. The available definitions are mostly center on characteristics and expectations which as a consequence elicit diverse understanding of the concept 'public-private partnership' amongst different stakeholders. Extant studies initiate discussion on PPPs with an attempt at providing, identifying with, refining an existing definition of the concept of PPP.

Commonly, as opposed to providing a comprehensive definition, the authors focus on a particular feature or set of features as identifier(s) of PPP and utilise such a feature or sets of features as central definitional pivots. Sedjari (2004), for instance, places primacy on solidarity as an important trait that should exist among private and public sector partners. Sedjari posits that a PPP as a new cultural phenomenon and identifies a PPP as a form of ' culture of engagement' (Sedjari, 2004:303). Relatedly, Brinkerhoff and Brinkerhoff (2004) emphasize mutuality as an important trait in a PPP. Bovaird (2004) places emphasis on commitment and defines a PPP as commitment that transcends contracts. While Haque (2004b) insists on the lack of consensus on the meaning of partnership, he emphasizes two important features of mutuality and organizational identity. Haque (2004a) describes organizational identity in this context as more of maintenance rather than surrender of each partners identify, beliefs and values.

The characteristics noted above are important as they depict the properties that distinguish PPPs from other traditional forms of collaboration between the private and public sectors such as public procurement contracts, outsourcing or subcontracting to a private company for execution of a particular task. For instance, in outsourcing or subcontracting, the important features such a mutuality, commitment, and solidarity that underlie PPPs are not normally features that the government is looking for or places primacy on. As such these features are normally missing.

Despite the identification of those uniquely distinguishing features, they are not sufficient in themselves to articulate how specifically collaboration in the partnership occurs and for what reasons. This observation leads to an articulation of institutionalization as an important ingredient. Klijn and Teisman (2003) in that regard suggests that a PPP ought to be an institutionalized arrangement involving the private and private sectors in which responsibility is shared for the product or service, risks accruing, costs and benefits. While this definition clearly spells out the important traits and the institutionalization requirement for PPP, it clearly lacks the explanation on the end objective and the approach for its achievement.

In blending the diverse considerations, it appears Grimsey and Lewis (2002b) provide a rather more comprehensive and full definition and articulate a PPP as an:

'agreement where the public sector enters into long-term contractual agreements with private sector entities for the construction or management of public sector infrastructure facilities by the private sector entity, or the provision of services (using infrastructure facilities) by the private sector entity to the community on behalf of a public sector entity' (Grimsey & Lewis, 2002b:108).

Grimsey and Lewis definition highlight specific properties including 1) the agreement takes the form of legally binding contract, 2) the agreement ought to be of longterm nature, 3) partnership should involve provision by private sector of an infrastructure or service that is viewed as public sector responsibility, 4) there must be an identifiable public agency on whose behalf the infrastructure or the asset is being provided, 5) within the framework of PPP, the asset has to be constructed and/or maintained, 6) in some cases the government transfers the asset to the private operator and the operator accepts responsibility for its maintenance and 7) a partnership provides the service to the public using the asset transferred to it by the public sector entity (Mouraviev et al., 2012).

The relative comprehensiveness of Grimsey and Lewis' definition notwithstanding, an important feature also highlighted relates to the mode of compensation for private partners. Two important traits related to mode of compensation are noted as Morallos and Amekudzi (2008:114) note that 'provision of service may be compensated through payments by the government or may be funded through user charges and fees'. Similar set of features are presented by Hall (2008).

However, what is distinctive about Grimsey and Lewis (2002a) conceptualization of PPPs is that they place primacy on the tangible properties – contract, longevity, asset construction and/or maintenance, and provision of services using the said assets. These attributes ideally set the framework for the collaboration between the public and public sectors. Nonetheless, this definition has an important limitation as the focus on the tangible aspects overlook important implementation process issues and interaction between partners post the establishment of the PPPs. In other words, it assumes once the tangible aspects are in place then 'partnering' is established. To respond to this, other authors place emphasis on the interaction over the legal framework. In fact, Andersen (2004) posits that the process of continuous interaction and negotiation is what defines a PPP. And like Andersen, Klijn and Teisman (2003) place importance on the process of continuous interaction and posit that through continuous interaction, the partners even can realize mutual added value from the partnership.

Moreover, the interaction that happens among partners which is meant to create additional value determines yet another critical characteristics of PPP which emphasis on the management of the results of the partnership or the output or outcome management (Peters & Pierre, 2006). The emphasis in results specification in partnerships, which identifies the elements of the service and how the partnership ought to provide or achieve them becomes of more importance than the primary specification of input that the different partners bring into the partnership. As such, in the context of continued interaction, aspects such as how much the privates sector should invest on construction or maintenance of the asset and other details such as how many human resources they ought to hire become subordinated by aspect such as service requirement and results based metrics (Morallos & Amekudzi, 2008:116). In that sense the focus on results management places the emphasis on the post initiations determination i.e. input focus, to a focus the post initiation governance and the process of implementation, i.e results focus (Bult-Spiering & Dewulf, 2007; 2008) in the management of the public sector or organizations set up for public service.

In a nutshell, to those researchers that place primacy on the interaction among partners in the context of PPPs as the main characteristics only view legal frameworks underpinning a PPP as relevant to the extent that such arrangements are suitable to create or sustain a relationship that creates added value as a result of the partnership rather than disrupt value creation. In their view, the added value arises most importantly from the ongoing interaction between partners. In revisiting the shared responsibility argument as it relates to product, risk, costs and benefits that Klijn and Teisman (2003) make, it is important to note that it is the sharing of responsibility traits that transforms any collaboration to the partnership. In the event that the sharing trait is missing in collaboration then such collaboration becomes devoid of a partnership and can as well be managed as a contracted out service from the public to privates sector.

In particular, in the event of collaboration where one partner does not jointly contribute to the project costs, then one partner's involvement becomes considerably reduced and will follows that the same party's risk will also be diminished. In such a case, the cooperation may be governed by the contract where a private party is only hired to execute a task. In other words, the shared elements shape the nature of partnership and the absence from the start or reduction in the course of implementation of the partnership will likely change the nature of the partnership in important ways – in particular it moves from partnership to simple contractual relationship with no direct or explicit partnership intentions. So from this perspective, the absence or the extent of existence of shared elements denotes an important difference between a PPP and another form of workings between the public and private sector in the execution of a public task.

In addition, many scholars frequently place emphasis on the longevity of the partnership as important underlying feature of a PPP (Klijn & Teisman, 2003; Hall, 2008). As a rule, longer term projects require mutual contribution of inputs, and it's the reason parties that get involved tend to implement them as joint projects as it is hardly possible for one party to be willing or even be able to execute the project singly because high risks and costs incurred in prolonged activity (Klijn, 2010). On the other hand, it is much simpler to execute short duration projects as they often will require comparatively less resources and are less risky on many levels. In regard to short term projects, the government can accomplish the task by itself or hire private contractor to execute it on its behalf. As such there may not be a need to establish any form of long term PPP for such a purpose. In that case the longevity of the collaboration becomes and important characteristic that comes hand in hand with the necessity to share especially the costs and risks involved or may be involved in the operation of the partnership.

Frequently, researchers understand a PPP as a particular project of the public private collaboration nature where the characteristics as discussed above essentially apply. Often this kind of PPP is referred to as a contractual PPP (Renda & Schrefler, 2006).

But there exists another meaning of partnership called institutional PPP (or simply IPPP). IPPPs are joint venture companies co-owned by the public authority and private investors with equal or with one party having majority ownership. These companies may also have a contract to provide a service or infrastructure for or on behalf of the public authority. In most country contexts, some city utility services operators are partly owned by the city or municipality councils along with private investor to run essential routine urban management services like water supply and waste collection and transportation among others. These joint companies may operate this services without requiring competition for contracts especially in context where these joint ventures where initially formed as public companies but were later opened up for private investor shareholding or as (Hall, 2008) puts it in situations where the service is 'delegated' without tendering'

The foregoing description of IPPPs also suggests that there can be two types of IPPPs. On the one hand are those IPPPs where the government and the investor (individual or institutional) own the company and the company is involved in open ended provision of a particular service or set of services with the particular government department, such as a municipal council. The other type of IPPP is when the jointly owned company executes a delegated service that could be formalized through a contract or other formalization instruments that may also include the service provided overseen through a regulatory mechanism.

In unpacking the important features of IPPPs, Hall (2009) studies the European Commission guidelines that articulate the aspects of PPPs and underscores the role of the private partners in managing the activities set out for the partnership. In particular Hall examines the EC's Interpretative Communication on the Application of Community Law on Public Procurement and Concessions to Institutionalised Public-Private Partnerships (IPPP) C (2007) 6661 Brussels, of 05.02.2008. On IPPPs, this Interpretive Communication states that, 'The private input to the IPPP consists – apart from the contribution of capital or other assets – in the active participation in the operation of the contracts awarded to the public-private entity and/or the management of the public-private entity' (Hall, 2008:11).

Although participation is expected from the private sector beyond capital contribution in IPPPs, it is important to clarify that some of the identified features of the project-based PPPs cannot apply directly in the context of IPPPs. First, since the joint venture is jointly owned by the government it cannot be said to be providing the service on behalf of the government instead it essentially becomes a semi government entity. In fact depending on what the government share of ownership is service users may either see the venture as either mostly private or public but rarely as a partnership.

Secondly, an IPPP may have unlimited life yet the project-based PPP must have terminal date. As opposed to the IPPP, perpetuity cannot be an optional set up mechanism for project based PPPs. As such, an IPPP has important differences with project-based PPPs that set the two forms of PPP apart from each other.

In nutshell, the diverse approaches in the academic literature in the articulation of PPPs include a) PPP as contractual relationship of a long-term nature involving the use of asset to provide public services by the private sector entity using constructed or maintained public asset; b) PPP as a project where ongoing interaction between partners is essential characteristic; 3) PPP as project requiring shared responsibility for costs, risk, benefits and product or service; 4) PPP can be an institutional partnership with jointly shared by the private investors (individual and/or institutional). The first three depictions of PPP can be seen as more complementary than contradictory while the fourth articulate a peculiar meaning and package separate from the other three as it reflective of the structural form of partnership rather that process of partnering.

That said, it is worth stressing out that this study focuses on the contractual PPPs and the detailed consideration of the IPPPs is beyond the scope of interest in this study. Having conceptualized the PPPs and delineating the focus on the project based and contractual PPPs, it is equally important to elaborate that contractual PPPs are not homogenous, instead they take different forms. This will enable to capture the additional peculiarities that may underlie the nature of interaction between partners as regards to governance arrangements post initiation phase, the underlying implication on control, institutional and actor's roles. In that regard, the following subsection presents the literature appraisal on the different forms of PPPs and will subsequently delineate the form considered for this study.

2.4: Different Formations of Public Private Partnerships

PPPs can take a number of different formations delineated from many different perspectives. Sadran (2004a) observes the heterogeneity and multiplicity of the PPP formations can be traced to the policy sector in which the PPP is developed and the locality of the PPP. In particular, the variations in formation of PPPs can be viewed from the two major perspectives: industry - the kind of sector in which the PPP is operated and organizational - how the participants decide to arrange the elements for consideration.

In regard to the sector perspective, the sectors in which PPPs are operationalised in different country jurisdictions are varied but mainly include economic and social infrastructure sectors including transport (for provision of transport services and construction and management of transport infrastructure such roads, bridges, airports, railroads), energy (including the generation, distribution and supply), telecommunications, education (building and management of schools), health care (delivery of health care services and construction of healthcare infrastructures), criminal justice (management of prisons and correctional facilities), Water facilities management, Sewerage and Sanitation, Disaster management, Poverty alleviation, Environmental management (Haque, 2004a; Renda & Schrefler, 2006). In fact Sedjari proposes to refer to these alternatively as partnership intervention areas in which he provides examples such as sector PPPs as PPPs focused for particular sectors or projects, PPPs at city or municipality level, and PPPs with general or global impact as the Global Partnerships (Sedjari, 2004:299). In other words, Sedjari categorizes the PPP formations by scope and level of operation. Utilising the specific national experience, Sadran (2004a) notes the PPPs are common and important in France because of the country decentralized system that allow the local government the authority to initiate such arrangements.

In regard to the organizational perspective, PPPs take several formations including concessions, Private Finance Initiatives, and asset life cycle contract (Bovaird, 2004; Sadran, 2004a; Sedjari, 2004; Kakabadse et al., 2007) and it is this organizational formations that this study focuses to isolate the type of PPP considered in this study (see chapter five).

2.4.1: Concessions

A concession means that a private party using its private resources constructs or renovates an asset or in some instances the public agency or department transfers an asset to a private sector partner. The private company, often special purpose vehicle, assumes the responsibility for the provision of the service using the transferred asset for a specified period, usually more than 20 years. In addition, the private party assumes responsibility for the maintenance and expansion of the asset, including upgrades and replacement necessary for the continued provision of the service within the agreed specifications or will be determined from time to time in the course of the agreed duration.

To recover the investments and costs of operation, the private company receives fees from service users. This important trait of concession type of appears to attract most contention. There are varying opinions in regards to the sources of payment to the private operator.

Generally payments to the concession are either generated through user fees or through availability payment by the public agency or some mix of the two approaches (Renda & Schrefler, 2006) – user fees and availability payments. In utilizing the user fee approach, the private operator charges fees to the end user of the service. The fee levied is either determined by private agency competitively or is set by a responsible public or independent authority, such as a regulator. On the other hand, availability payments are made routinely in agreed intervals provided the service is made available to the user in an agreed standard. While there appears to be wider agreement that any of the approaches or a blend can apply, some authors posit exclusive application of the payment modalities, that is in regard to concessions that the only mode of payment is the user and no involvement of government funds, while for PFI discussed below) payment is received from the public agency in form of availability payments (Boyfield, 1992; Ball et al., 2001; Hall, 2008)

Amidst that ongoing contention, in some instances, a shadow toll is used as a way of compensating private operator in the concession. A shadow tool is when the government guarantees to the private operator a certain amount for a particular level of service. In this instance, the government will provide payment for the agreed amount or level of service and any additional is paid for directly by the service users (Sadka, 2007). The idea generally at this point is to ensure that the demand risk is shared the private sector is not too exposed in that regard. The discussion chapter of this thesis demonstrates that in the case of electricity distribution concession in Uganda, the government subsidizes the cost of electricity in different ways but the mode of payment to private operator is through paid costs of operations and interest for the investment generated from tariffs.

2.4.2: Private Finance Initiative (PFI)

The Private Finance Initiative, or the PFI, as it is more commonly referred to is yet another form of PPP. Although the difference between concession and PFI is not straight forward, it is clear that the PFI is more outcome or results focused approach to partnership. Popularized in the United Kingdom since 1992, the PFI focuses on determination of the results by setting clear and firm service standards for the private operators from the time of contract signoff. These standards are stable for duration of the contract and do not easily change or evolve because investments are made by the private party to meet the said standards. In addition, in the case of PFI, the contracting private company is the service provider not delivered through consortium or special purpose vehicle (Asenova & Beck, 2003; Grimsey & Lewis, 2004b). In the literature the difference between PFI and PPP are blurred with number of scholars articulating PFI as a strand of PPP.

2.4.3: Asset Life-Cycle Based Contracts

Another categorization used to describe, package and present PPPs follows the asset lifecycle contract. Ideally these are of a similar nature to concessions but often it is the public contracting agency that pays for the provision of the service or the infrastructure instead of the direct user (Bovaird, 2004; Sadran, 2004a; Sedjari, 2004). In this case the life of the asset most importantly determines the tenure of the contract. These specific formations, which are commonly referred to as PPP types in the literature, are usually informed by the intention for which the contracting public agency is employing PPP. These different arrangements reflect the expected role of the private sector operator in the course of the partnership. The various forms of the arrangements include BOT (Build-Operate –Transfer), DBFOT (Design-Build-Finance-

Operate-Transfer), DBFOOMT (Design-Build-Own-Operate-Maintain-Transfer), OM (Operate-Maintain) or another combination of task or elements that determine the role of the private partner in the collaboration (Sadka, 2007; Morallos & Amekudzi, 2008). For instance in the DBFOOMT, the private sector partner assumes the responsibility of designing the asset, goes on to build according to its own design specifications, provides the necessary funding, takes owner rights to the asset, the private sector is also responsible for operating and maintaining the asset (including the necessary upgrades for it effective functioning) and transfers the asset at the end of the contract period to the relevant public sector agency.

2.4.4: Initiation Based Formations

Another approach to understanding PPPs forms is the one proposed by Sedjari (2004) based on initiation. Making reference to Francois Ascher's work, Sedjari develops there categories of PPPs primarily based on the way they were initiated including, 1) sector initiated PPP, 2) private sector initiated PPP and 3) an appointed PPP (Sedjari, 2004:298).

In the public sector initiated PPP, the public agency identifies the need for the PPP and invites the public sector participation following any of the predefined modalities. But most importantly the initiation by the public sector is driven by the apparent identified need in the public service provision. In essence the private sector is invited as and when the public sector agency has determined the necessity for the involvement of the privates sector in a partnership format. The private sector initiated PPPs usually occur, first, following unsolicited proposal where the private sector organization identifies a service provision and infrastructure gap, assesses the commercial viability and develops proposal to the relevant agency to fill the service or infrastructure. If the public sector agency finds the proposal suitable for their need then any set procurement processes related to consideration of the unsolicited proposals then precede any formalization of the partnership.

The third formation is the appointed PPP and it mirrors the Institutional PPPs described earlier. (Sedjari, 2004) notes that in the appointed PPP a company, with majority public ownership, is formed to deliver identified public service. Although such a company is providing public services, the company has operational flexibility in the course providing a service and does not operate as typical public company. However, although the part private ownership is allowed, unlike in the IPPPs where the proponents do not emphasize that public sector owns majority stake in the company, in the appointed PPP, the public sector ought to own the majority stake.

Understanding how players initiate partnerships is important in indicating the different kinds of partnership projects and arrangement that exist but even more importantly it helps to indicate the partnership control arrangements explicit or implied and the nature of the governance framework plays out at the important phase of implementation. For instance, until the recent Act of parliament that provided the legal framework for PPPs, PPP arrangement in Uganda were 1) developed on the based the proliberalisation legislation made in 1993 called Public Enterprises Reform and Divestiture Act (PERD ACT) that determined the nature of the private sector involvement as well as identified the entities (and as such services) to be involved, 2) the PPPs were procured in a similar format as any other public procurements. In essence, there were not any formal mechanisms that enable the processing and consideration of the privately initiated PPP.

A later part (chapter 4) of this study highlights the Ugandan experiences with PPPs and particularly the nature of PPPs forms in the country. Having discussed the various forms that PPPs take, based on international discourse, it is important to delineate the literature arguments for PPPs. In the following section, discusses reasons for employment of the PPPs is discussed based on evidence from international literature on the rationale for public private partnership. This is important as it allows for the researcher to place the unique rationalization for adoption of PPPs in Uganda in much broader context of international rationale for PPPs.

2.5: International Rationale for Public-Private Partnership

Given that the PPPs are attributed to many advantages, it is important to identify what those benefits are. Acknowledging the extant diversity in the rationalization for PPPs that arises from different disciplinary perspectives, actor interests, sector differences and specific country contexts, this study focuses on the overarching arguments for PPPs as a complete discussion of the various rationales would not be feasible within the limits of the current study.

First, economic efficiency and effectiveness arguments appear to be important criteria for the decision to adopt PPPs (Hofmeister & Borchert, 2004). In particular, the value for money (VfM) appears as one of the most prominent propositions for the employment of PPPs (Brown & Potoski, 2003; Kakabadse et al., 2007). The UK's HM Treasury Value for Money Assessment Guides provides one of the most comprehensive VFM definitions as: 'the optimum combination of whole-of-life costs and quality (or fitness for purpose) of the good or service to meet the user's requirement. The term whole-of-life is used to refer to the lifecycle of the good or service. But VfM is not the choice of goods and services based on the lowest cost bid'. This definition emphasizes the importance of taking into consideration the lifecycle costs of the project and quality of the good, product or service offered. The consideration of the quality of the product or service in this case places primacy on the output specification as an important trait of PPP (as highlighted in the previous sections). As such, the tradeoff between lifecycle costs and the quality of the service (fitness for purpose) is at the center of the VfM concept.

Applied in the context of PPPs, VfM means that PPPs should be able to bring in more quality of service when adopted as compared to other methods such as direct public services provision and contracting out of services. In essence following the value for money argument, PPP should only be adopted if PPP can deliver the public infrastructure or services cheaper and better as opposed to other options (Kakabadse et al., 2007). But the manifestation of the value for money can be different. Colman (2000) note for instance that the overriding aim is to get good deal for the tax payer. If the overriding deal is different from this then there are apparent risks to the VfM because a) the government will be more concerned with executing the process than on establishing if there will be a good outcome from the partnership, b) the government attention will focus on reaching agreement on a deal and not on getting a good deal (Colman, 2000:73). The primacy of VfM on decisions notwithstanding, several researchers have criticized the use of the VfM as a key criterion citing the lack of public sector comparator in most instances (Morallos & Amekudzi, 2008; Demirag & Khadaroo, 2011) and caution on sole of over reliance on VfM methodology.

The second set of reasons for employment of PPPs apparent in the literature is the need to mobilise resources to support infrastructure development and service provision. Often researchers have emphasized the synergies created by mobilizing resources from private and public sources (Brinkerhoff & Brinkerhoff, 2004; Sedjari, 2004).

In addition, the rationalization for PPPs also includes the utilisaton of comparative benefits and the rational separation of labor. That is, the availability of multiple actors and integration rather than unnecessary separation of solutions. In this case few government agencies, private firms and other actors can come together to implement a specific task. The other is the possibility of engaging in a more broad, inclusive and open decision making processes that enhance the broader operationalization of a public good (Brinkerhoff & Brinkerhoff, 2004). One can equally expound the broader engagement rationale by arguing that involving diverse stakeholder helps to reinforce important aspects such as transparency and efficiency which all feed into the founding VfM argument in which the partnership value for money is founded on the ability of such a partnership to provide more value compared to cost relative to other options.

The other advantages of PPPs relate to competency. The ability of PPPs to deliver the public sector tasks using the technology and other resources of the private sector is an important attraction. In particular, insourcing the expertise of the private sector in multiple areas including technology as well as in the improvement of human resource expertise and public service ethos and capabilities (Hofmeister & Borchert, 2004). With particular regard to capabilities, while employing PPPs, it is possible for the government or the public sector broadly, to improve its experiences by sharing knowledge and skills that can improve the public sector management in different areas long after the PPP has terminated. This sharing can sustainably help to accelerate implementation of projects and delivery of services (Morallos & Amekudzi, 2008).

Besides the known advantages, there are drivers to partnership. In other words what actually makes the partnership happen? First, scholars posit that it is possible for the public sector agencies to move a significant burden of costs to the private sector 'The ability to shift the government's financial burden of providing and maintaining facilities and services is a major driving force especially for nations and states facing funding strains on their infrastructure budgets' (Morallos & Amekudzi, 2008:114). This observation is particularly relevant to emerging and developing country contexts like Uganda as both the social and economic infrastructure is in need of upgrading and development. In fact the private funds argument for PPPs has an equally important lens commonly noted- that is the ability of the government to reduce its fiscal burden debt through out-of-budget borrowing or indirect borrowing by using PPPs (Maskin & Tirole, 2008). This means the PPPs can be used to 'disguise conventional contracting undertakings that are subject to standard budgeting processes because PPPs are carried out off budget' (Sadka, 2007:2). Therefore, where the public sector chooses to utilise PPPs, the capital intensive projects involving, for instance, the development of economic and social infrastructure is not accounted for as borrowing in the government books of accounts (Gallay, 2006). In a lot of countries where the debt and equity ratios are integral for the potential of future borrowing, the possibility for off balance sheet use of external resources is therefore an important incentive to employ public-private partnerships. For instance, the Eurostat ruling in February 2004 that assets involved in PPP be classified outside of government asset (Hall, 2008) can also been considered as reduction of the burden on government balance on assets but also a reduction of the liability. In other words, the government cannot borrow against those asset neither can liabilities associated be used to hinder governments future borrowing.

Relatedly, PPPs enable governments to spread the cost of investment over future budget periods. Although this is one of the highly contested rationales for PPPs in the literature, the argument is that instead of the full investment amount in the present year thus creating a future budget deficit, the cost can be spread to create a reduced deficit (Sadka, 2007). The merit to the argument is that government fiscal stability is maintained despite the large government expense. But such a practice affects public policy and government as it locks in the decisions of future generations and future governments (Savas & Savas, 2000; Osborne, 2002; Parker, 2012). In other words future generations and governments have no freedom to make their own decision or to respond to challenges of their own times as they are constrained by past decisions.

Another important argument for PPPs is that is facilitates better risk allocation and transfer between the private and public sectors. Many public agencies are motivated to enter into PPP arrangement because of the ability to transfer the risk to the private sector actors. The theoretical principle on risk transfer in partnership is that risk is transferred to the party best able to manage them (Morallos & Amekudzi, 2008). As Renda and Schrefler (2006:1) noted, 'In PPPs, the core principle lies in the allocation of risk between the two parties: well-designed PPPs redistribute the risk to the party that is the 'superior insurer' or the 'least cost avoider', i.e., the party best suited to control and/or bear the risk'. As with the off budget financing argument above the risk transfer argument for adoption of PPPs is also heavily contested. In fact one of the main counter arguments is that operational benefits of risk sharing are simply fallacies as risk instead are just transferred to the service users (Reeves, 2013). A later section of this review addresses the risk issues, particularly post contractual risks in greater detail.

Moreover, the reduction of social cost appears as one of the PPP justifications. This rationale is informed by the Transaction Cost Economics (TCE) arguments where minimization of the total social is primed as an important incentive or criterion for the decision to choose PPP and as an instrument for public service provision (Vining & Boardman, 2008b). Generally scholars define social costs to include the production cost incurred in the provision of any service, for instance design, construction and cost to contractor or third parties, plus the transaction costs, for instance,' bidding costs and interest payments on loans, plus (net) negative externalities (e.g., cost of pollution less value of positive externalities, such as reduced waiting time), holding quality constant' (Vining & Boardman, 2008a:149). The argument in the TCE is that an approach that reduces this transaction costs in the provision of the service or in addressing a given issue should be preferred (Brown & Potoski, 2003; Vining & Boardman, 2008b). As such, if a PPP reduces transaction costs compared to direct service provision or contracting out (traditional procurement) then a PPP model should be applied. At development phase and in particular the while conducting the assessment, the advice is at a comprehensive assessment of transaction cost for all the options is undertaken including for such costs that rarely appear in the budget. Specifically, (Vining & Boardman, 2008b) emphasize the inclusion of government transaction costs for the entire project period considered. Additionally, (Parker & Hartley, 2003; BOARDMAN & VINING, 2012) insist on the need to include all the externalities and to account for quality differences – costs that seldom appear in the budget.

In this regard the idea of utilizing PPP where minimization of social costs is possible has important similarities with the value for money argument developed earlier. In particular a) both the TCE and VfM viewpoints premise on projects costs (or value) from PPP option against a particular benchmark, often direct public service provision or traditional procurement. Then b) both approaches require the application qualitative and quantitative tools for the determination various cost and benefits. For instance beside the quantitative of direct routine costs for both approaches, in VfM you require qualitative tools to identifies the project outcomes achieved as a result of deployment of resources while for TCE a qualitative approach is imperative in identifying g the externalities that can may not immediately be known or quantifiable but will affect the total social costs of the projects.

In a nut shell, the proclaimed advantages from the use of partnership is can group in four ways following (Gray & Stites, 2013) categorisations including a) legitimacy oriented motivations that premise partnering as informed by the need to gain social acceptance, b) competency orientations that emphasis potential for collective learning among partners including in skills and technology, c) resource oriented with premises focused on the organizational financial and social capital assets, and lastly c) society oriented in which PPPs are viewed as more sustainable modality for provision of services and infrastructure compared to the other modalities.

That said, it is important to note that these advantages are potential. In other words some of them may or may not be realized in a particular country context, sector or project. For instance ability achieving value for in the full course of project in context characterized by high institutional and other uncertainties or minimizing transaction costs in over a longer period of time in context dominated by wide spread corruption. As such, whether the proclaimed advantages materialize or not is dependent on many factors but most importantly, what the partners set out to achieve and how the PPP project was designed for that objective – including the terms negotiated and agreed up on. The achievement will also depend on how the partners and the various actors manage the long operation period after agreeing to undertake a Public-

Private Partnership project, which is separate section of this review and central concern of this study.

Therefore, the assertions that when PPPs are employed distinctive advantages accrue may not necessarily be justified because hardly any advantage is guaranteed, instead a whole range of benefits are only contingent on many conditions. An exhaustive investigation of PPPs needs a deliberate balanced discussion on the merits and demerits of PPP as an instrument of public infrastructure and service provision. The next section devotes attention to highlight the shortfalls deciphered from a review of international literature. Like the merit above, the occurrence is not guaranteed as some of the reviewed shortfalls will be mitigated by the specific country, sector, projects context.

2.6: International Criticism of Public-Private Partnership

Although PPPs present with a number of associated merits discussed in the previous section, these instrument for service provision also has a range of shortcomings that have precipitated their international criticisms. Two main lines of criticism are prevalent in the literature. The first is more specific and focuses on countering the said advantages by providing counter arguments on the proclaimed advantages. In particular the criticisms focus on projecting the doubt on the said advantages. In the preceding section, some of these doubts have been highlighted and evidenced. The second line is broad and focused on the general counter effects of public-private interaction in the context of public service provision. As the first line of criticism is already addressed in the preceding section, this section focuses on the second set of shortcomings. These can be placed in two broad categories including implication on service cost and on public sector governance.

One of the most highlighted shortfalls of the utilizing PPPs is the higher costs incurred for the provision of the service or infrastructure. There are a number of explanations for the variance in costs with the dominant being the cost of capital. Normally government is able to access financing at cheaper interest rates compared to the private (Bovaird, 2004; Kakabadse et al., 2007). Consistent with this assertion, Hall assert that 'in almost every country in the world, governments can borrow money more cheaply, at lower rates of interest, than the private sector' (Hall, 2008). As Sadka (2007) explains, financial institutions consider the governments less risky to lend compared to the private company and as such are more willing to lend to government than they are to the private sector. Even though it may appear, in the initial instance that the cost of borrowing by the private sector higher, the reality is that the terminal cost ends with the government or the end user through high user tariff or high availability payments. In this regard, the cost at which the government would provide a similar service would arguably be lower.

The second line of criticisms relates to the implications on the governance of the public sector. First, the literature highlights the loss of government obligations for the provision of the public service (Haque, 2004b). The loss of obligation can be both actual and perceived. As a reality, once the government agrees to handover the asset or the responsibility to provide particular services to the private sector partner, its direct and routine involvement in the monitoring and control of the provision is relatively lost. Although government can have step-in rights, such can only happen in procedurally prescribed manner implying that it is not possible for government to provide an immediate response even when necessary. The loss of obligation can also be perceived. For instance, the absence of the government in the direct service provision and in responding to the routine service provision concerns from the end-users can easily be perceived as the government intention to abscond from service provision. This is particularly true for contexts and sectors where the end-users may not be educated enough about the modality and the changed role of the government in a specific arrangement.

Similarly, PPPs create a context for institutional conflict. This assertion is particularly premised on the idea of the existence of inherently differing institutional logics between organizations, more so between those in the private and public sector. Acar and Robertson (2004) posits that overall partnership efficiency is compromised if there are differences either at the personal or organizational levels between the private and public partners. Some of these differences can relate to differing commitment levels to the partnership, poor control and evaluation arrangements, alterations of contractual provisions and difficulties in working relationships (Hofmeister & Borchert, 2004; Kakabadse et al., 2007). It is possible that a public and privates partner agency may assign different level of priority to different standards. A public partner might seek for stable service tariffs yet the private sector may seek for increased tariff to improve its financial targets. A public partner might seek for increased access of the service to the wider population while the private sector is looking at commercial viability from such expansion. Similarly, a private partners commitment to the partnership is decreases as the terminal phase of the partnership nears and as a result is reluctant to make further investments to maintain or upgrade services while the public sector is looking forward to receiving back a fully functioning and well maintained asset when it is transferred.

Moreover, PPPs are seen by some scholars from a public sector governance perspective as a recipe for risks. As PPPs highly depend on the relationship between partners, some risks may arise from lack of understanding among partners during the course of the partnership. The behavior of one partner may impose risk on the interests of the other. Similar to the preceding point, partners might pursue self-interest agendas that risk the achievement of the other party. Elements of opportunistic behavior designed to self-serve arise when two or more parties take actions contrary to the common or agreed intention which might necessitate cancellation of the partnership. 'Unethical behaviour will backfire on both partners and will dramatically increase political risks. This, as Hofmeister and Borchert observed, 'will lead politicians to cancel PPPs too quickly' (Hofmeister & Borchert, 2004:219). Regardless of the source of challenge arising from the interaction, interactions in themselves with the partner with a different set of interests will be risky

The other important downside arising from the PPPs employment of PPPs is the potential to be used by the government to mask public sector weaknesses. Although proper management of the PPPs demand transparency and accountability as is part and parcel of its good governance, such a PPPs potentially highlights existing public sector weaknesses (Hofmeister & Borchert, 2004). This observation may have particular resonance to many country contexts, including Uganda, associated with low public sector transparency and accountability. In such contexts, it is likely that the government or the particular public sector agency may use elements of PPPs commercial confidentiality clauses to further shield its self from the necessary transparency and accountability as well as from the any criticism relating to operational elements of the PPP including the procurement processes, the costs to the public arising from the partnership, the modality of risk identification and apportion and many other functional issues. In the very worst case, governments can utilise the commercial confidentiality to conceal or misrepresent its policy strategies (or actual absence of) as well us misrepresent policy outcomes arising from particular decision relating the provision of public services and goods. These are only potential limitations of PPPs, PPPs actual draw backs will vary by context and a further and specific elaboration in the country context of Uganda with its limited PPP experiences is deserved. One of the objectives of this study is to explore the perceptions and experiences of PPP actors as it relates to accountability and transparency and what the context specific response mechanisms are. Further thematic elaboration of accountability and transparency at the post contractual phase is made in the later part of this chapter. Having articulated the PPPs associated advantages and drawbacks, the next section present the important phases of PPPs with the major focus placed on the post contractual phase – including the rationalization for this study's focus on this phase.

2.7: Phases of Public-Private Partnership

There are varied ways of sequencing and grouping the different activities involved PPPs. The most prominent based on the asset life cycle in which the typical stages of the PPP are seen to follow the life cycle phases including design, building or constructing and operating. In way, the organization of phases largely draws from and aligns with the asset lifecycle contract forms discussed in the earlier section of this chapter in which sequentially activities in asset management are pulled together.

The other categorization of the different phases follows a project development approach in which different phases reflect a set of activities under the course of developing a project. In following this approach, for instance, the Private-Public Infrastructure advisory Facility (PPIAF) describes the five key stages in the process from selection of projects, through contract award and until the transfer back of the facilities to the public authority. The stages allow for each PPP project to be individually tailored to its particular characteristics and environment, essential for successful implementation as the table below shows.

Phase	Key activity	Description
Stage 1	Project Identification	Identification, Prioritization and Selection of the PPP Project
Stage 2:	Due Diligence and Feasibility Studies.	This process includes activities and studies to ensure the selected project is well designed and can be successfully tendered and implemented.
Stage 3:	Procurement	This stage includes prequalification of bidders and the bidding and bid evaluation process and includes a section on Unsolicited Bids.
Stage 4	Contract Award	This stage gives advice on dealing with the preferred bidder(s).
Stage 5	Contract Management	This deals with the construction and/or operation periods of a project including transfer back if relevant

The main difference between the asset lifecycle and project development based approaches is that asset lifecycle assumes the partnership to start with the activity of the private partners. As such its focus on the pre contract activities are silent. On the other hand, the project based approach combines the specific lifecycle activities and considers all that as part of contract management. In line with a number studies, this investigation explains the phases of PPP in three distinct stages including pre contractual or development phase, post contractual or implementation phase, and termination phase. In the following subsections each of the phases are described including the activities undertaken in the phases.

2.7.1: Pre-contractual Phase

The pre contractual phase, often also called the development phase, of PPP reflects a period in which partners establish the justification, the approach and commitment to mutual obligations and responsibilities. Many scholars describe this phase of the PPP as procurement. This generic description tends to over shadow and/or absorbs a host of activities involved in the phase. In that regard, Kodwo and Allotey provide an encompassing description of this phase as, 'the period between the initial conceptions of the project and the signing of the contract' (Amoa-Abban & Allotey, 2014:54). This broad description allows for consideration of the range of activities encompassed in this period and for better understanding of unique context specific processes undertaken. The phase is characterized by two sub phases including planning and feasibility phase and the bidding and negotiation phase.

In the planning and feasibility phase, the government or the public sector agency in particular in the process of justification the process of involving the private sector generally but more specifically the model of involvement of the private sector. As noted, in justifying the model of service, the government at this point determines the expectation and explores the options available including the traditional public provision and the traditional contracting out or outsourcing. In the UK context, for instance, the Public Sector Comparator (PSC) is used to compare the public sector delivery model and any other model considered involving the private sector.

To establish the viability of PPP as the delivery model, governments usually conduct a feasibility to satisfy the requirements of the implementing agency and approving authorities. Often the potential financiers will also be interested in the feasibility findings to inform their interest in funding the projects. Most importantly in the context of PPP consideration, a feasibility study will include comprehensive analysis of risks, possible effects and how to address them as well as de-risking to the extent possible. In some instances however, the feasibility may reveal that despite the social desirability of the project, the project may not be commercially viable to attract the interest of the private actors. In such instances, the government makes attempts to improve the commercial viability and attractiveness using a range of options such as provision of incentives and subsidies. Other options include provision of support guarantees on important aspects to boost viability. In principle, the government intervention will be warranted where it is determined that the PPP project can generate external benefits not easily captured and measured or prices and that the project is capable of improving social welfare.

The bidding and negotiation represent an important sub phase of the precontractual management of the PPP project. It is the phase in which all the significant players will start to exert influence. As with any other negotiations social, employment, political a number of influencing factors shape the process in the direction of the desired outcomes for the respective parties. The influences may take several different forms including for instance, negotiating strategies and skills of the parties, the behavioral predisposition of the parties, and the respective situations of the parties at the time (McKersie et al., 1965; McCall & Warrington, 1989; Brett et al., 1998; Brett, 2000; Maxwell et al., 2003; Naquin, 2003). All the above influencing factors can be categorized to relate to the attributes of the parties involved in the negotiation process (Tiong, 1995; Songer & Molenaar, 1997; Gupta & Narasimham, 1998; Ozdoganm & Talat Birgonul, 2000). As such, the outcome of the negotiation in regard to the specific expectations of the parties agree and commit to execute during implementation period are greatly influenced by the specific attributes that every player brings bear on the process of the negotiation. In fact one of the most critical findings on the studies in negotiations is that that over 80% of the time is spent arguing (Kennedy et al., 1996). In other words, a significant part of the negotiations involves parties' actively using their attributes to influence the other.

In contractual PPPs, as is the focus of this study, a successful pre-contract phase ends with the execution of an agreement to signify the commitment of both parties to be bound by the outcome of the negotiation processes. Researchers note that, done properly, this incipient phase can provide an early warning to avert premature decline and instead strengthen and extend partnerships. But the major downside is that all the decisions are founded on historical facts, assumptions and predictions of the future – a situation that is seldom an accurate prediction of the subsequent phases of the PPP. The next section discusses the post contractual/implementation phase of the PPP- which is the central consideration of this thesis.

2.7.2: Post contractual Phase

In PPP management, the post contractual phase, often also called the implementation phase, follows the award of contract. Although the nature of activities at this phase may vary depending on the form of PPP agreed and the other contextual considerations with regard to the country and sector, the post contractual phase signifies the formal commencement of the relationship between the private and public actor in the partnership. For instance, considering the context of a partnership involving construction, Kodwo and Allotey describe the post-contract phase as, ‘the period after the award of the contract when actual construction begins through to its completion’ (Amoa-Abban & Allotey, 2014:54). Regardless of the context or form the partnership is undertaken, post-contract phase marks the beginning of the implementation of the PPP project. In Operations, Maintenance, Transfer concession (OMT), as is the case in this study, unless otherwise determined expressly, the award of the contract signifies commencement of operations and maintenance of the asset by the private partner based on the commitments agreed to. Many scholars assert that the proper management of the post contractual phase has strong bearing on the success of the longterm PPPs (Hawkes & Buse, 2011). In other words, this phase denotes a phase in which the intentions of the partnership ought to executed and the outcomes realized.

However, it is important to note that this stage foregrounds the important partnership realities and reveals distinctive character of PPPs that are influential for the PPP success or failure. A number realities and character markers which are influential to the partnership become explicit at the phase.

First, changes to the anticipated situation at the pre-contractual phases occur. More often than not, PPPs interface with major challenges as result of the circumstances that were not readily anticipated during the precontractual activities of planning, feasibility study, bidding and negotiation. The nature of the challenges will vary from country context, sector and type of PPP. In fact, internationally examples of the effect of changes are bound. For instance, Demirel et al. (2017) cite an investigation by the Court of Audit in the Netherlands (2013) of five DBFM projects involving two major roads and three utility projects in the Netherlands in which a total of 157 uncalculated changes resulted in cost overruns amounting to 61 million euros. Similarly, Demirel et al cite the UK National Audit Office (2008) report that found that: 'An estimated 180 million pounds was paid by public authorities to private finance initiative (PFI) contractors to undertake changes in 2006'. Such reflections of disconnect between the anticipations of the precontractual phase and the reality at the implementation are abound (Demirel et al., 2015). As Flyvbjerg et al. (2003:6) put it: 'the world of megaprojects' preparation and implementation is a highly risky one, where things happen only with a certain probability and rarely turn out as originally intended'**.** In such a situation, although some authors have suggested clever contracting through proactive anticipation of the possible changes in the planning phase and providing for flexible contracts that are capable of adapting to the changing circumstances, complete anticipation is never entirely feasible.

Secondly, the post contractual stage often reveals the complexity underestimated at the pre-contractual phase. As many authors observe, insufficient understanding of the complexity of PPP contracts environment appears a major contributor to a large volume of sunken investments as well as to many project failures (Shaoul et al., 2006; Cantarelli, 2011; Cantarelli et al., 2012). The characteristic of PPP that involves the multiplicity of contractual arrangements with multiple actors that come together in a network of social connections, mutual commitments and specific contract clauses to deliver the intended objective (Hertogh & Westerveld, 2010) make PPP inherently complex. In particular, the long concession periods continuously reveals more complexity and uncertainty as stakeholders change along with their interests and priorities (Kwak et al., 2009). In addition, different actors bring different strategies, procedures and loyalties to the project, which coupled with necessary interrelatedness leads to a high level of unpredictability (Bourne & Walker, 2005). Related to the earlier reality, it is therefore a regular experience that the most significant sources of the change in the PPPs emerge from the interactions of various stakeholders (Ward & Chapman, 2008; Hertogh & Westerveld, 2010). In all, prior research in PPPs indicates that many failures resulted not only from single factors but also from the interactions of multiple factors during the lifecycle of the projects—including cost, quality, schedule, management ability, and others (Koppenjan, 2005a; Li et al., 2005; Zhang, 2006)

Thirdly, the post contractual phase is the longest phase in the PPP lifecycle. An important trait of the PPP projects in general is there longevity. Most PPP projects are agreed for between 20-25 years and can vary depending on the circumstances of each project case and the needs and demand of partners. This period is normally effective from the time project's financial close or what other scholars call the 'ribbon cutting'. Compared to any form of traditional procurement of services the longevity suggests that interaction between the partners and the interdependence is expected to take as much time. Also, since neither the activities to deliver a contract outcome, nor its environment are stable (Demirel et al., 2017), PPPs will be affected by these changing circumstance due to this long term commitments.

Therefore connected to the expected changes (Hwang & Low, 2012) and complexity (Shaoul et al., 2006; Cantarelli, 2011), these three broad realities reflect the distinctive character of the post contractual phase of PPP that suggest three important issues. First, the post-contractual phase is prone to a number of challenges that emerge from unanticipated changes and from underestimated complexities during the PPP partnership development phase. These challenges may undermine the remedial capability of the contract as an important governance instrument. As Johnston and Gudergan (2007a) observed 'technical-rational processes, contractually derived or even contrived post hoc the initial contract, are unlikely to act as effective governance tools'. In other words, apparently reasonable contractual provisions may not be sufficiently powerful to remain relevant throughout the long period of the PPP.

Secondly, the realities and distinctive character of the post-contractual phase suggests the requirement for actors to adaptability manage the partnerships. In particular, as new complexities emerge during the implementation, so do new challenges. This therefore creates a necessity for continuous development and application of responses to challenges not a matter of choice but as a given.

Thirdly, that the post-contractual realities and character are distinctive and context specific. In other words the uniqueness of context such as country and/or sector of PPP application require that projects be dealt within their own context (Verweij, 2015).

It is these sets of observations, coupled with the scarcity of research focused on implementation and practitioner experiences (Lenferink et al., 2013b; 2013a), and calls for case study research to focus on investigating dealing mechanisms with changes in the post contractual phase of PPP projects (Demirel et al., 2015; Demirel et al., 2017) that inform this study's focus on the post contractual phase. Similarly, calls have been made for more insights into what happens in the implementation phase of PPP projects and specifically the DBFM projects (Jones & Noble, 2008; Weihe, 2008; Klijn, 2009; Mistarihi et al., 2013b).

2.7.3: Termination and Transfer Phase

Termination and asset transfer, or renegotiation phase, is the last stage of the PPP cycle. This is the stage at which the formal process to end the relationship undertaken. Although there is abroad acknowledgement that PPPs occasionally end prematurely, that is, before the agreed tenure, for a variety of reasons, including force majeure conditions, this section is focused on the termination following the expiry of the contract period agreed by the partners. Many authors note the criticality of this phase and observe that management of termination as being at the heart of the risk-sharing arrangement between the public contracting authority and private sector partners. In addition, the termination clauses and provisions are seen as important value for money drivers for the public sector entity, help in mitigating risks for both the private and public sector and can boost attractive of the project to external stakeholders, particularly financiers.

The actual execution of the termination of the PPP includes activities such transfer of the assets from the private partner to the public partner, training of the public partners staff and development of the necessary capacity to continue the management of the asset or the service provision, as well as making the terminal payments or withholding payments in instances of the default. Despite the importance of this phase in the PPPs lifecycle, as already noted, the focus of this study is on the management of the course of implementation rather than on the terminal processes. To that end, this study does not place emphasis on the experiences of challenges at this phase. In addition, given that the adoption of PPPs is only a recent phenomenon, globally there are a few projects that have reached terminal phases – even those cases of premature termination are abound. In Uganda, for instance none of the pioneer projects have reached the terminal phase.

That notwithstanding, the significance of the terminal provisions on the partners have, in some instances, a bearing on the nature of action of actors at the implementation phase of the PPP.

In particular, where termination clauses provide risk safeguards, there will be implications on the partner's level of accepting risk and or transferring it.

2.8: The Concept of Governance in Public Private Partnerships

A number of different scholars have come up with varied definitions of the concept of governance from a number of theoretical and research perspectives (Hye, 2000; Schneider, 2004; Kohler-Koch & Rittberger, 2006; Pollitt & Bouckaert, 2011; Farazmand, 2015). Considered by a number of scholars as one of the 'hardy perennials' in contemporary public policy and public management, the conceptual entity of governance has nearly been an unquestionable concept in management and public policy sciences for many decades now (Ferlie et al., 2005; Asaduzzaman & Virtanen, 2016). The concepts' multivalency - its ability to link up with a number of different arguments and theoretical concepts, in particular, appears to underscore its prominence in management sciences and in academic public policy discourse. The analytical readings of governance literature from these management and public policy theoretical and research perspectives points to two important conceptualization sources based a) on international development organizations and b) on European scholars.

From the first conceptual source, the Organisation for Economic Co-operation and Development (1995) for instance defines governance to include public administration and the institutions, methods and instruments of governing and also incorporates relationship between government and citizen (including business and other citizen groupings) and the role of the state. On the other hand, The Word Bank (1994) defines governance as the manner in which power is exercised in the management of a country's economic and social resources for development. In particular, the World Bank's definition projects important administrative facets focused on the major issues including: civil service reform, public sector downsizing, service delivery, contracting out public interventions, as well as institutional capacity building. Other augmented perspectives are abounding from the international development organization research affiliates. For instance some researchers affiliated to the World Bank address governance from three perspectives including the process, the capacity of the government to formulate, implement and enforce policies and regulations, and people participation.

From the second conceptualization source, Graham et al. (2003), for instance, defines as an interaction among structures, processes, and traditions that determine how power and responsibilities are exercised, how decisions are taken, and how citizens and other stakeholders have their say. In this case, governance is about power, relationship, and accountability and particularly addresses the questions like who has the influence, who makes the decisions, and how decision-makers are held accountable. Kooiman (1993) defines governance as the forms in which public or private sectors engage in problem solving, not separately, but in conjunction with other actors in society. This approach, therefore, views governance as forms of multiorganizational action rather than involving only state institutions. In fact, these kinds of definitions have redefined the role of the state and distinguished governance from the traditional public administration and this is the intellectual and conceptual contributor to the emergence of PPPs the beginning of the millennium. In the similar vein, March and Olsen (2006) suggested a framework for democratic governance from a new institutional perspective. In their conceptualization, governance as a task demands developing democratic identities; capabilities for appropriate political action among citizens, groups, and institutions; accounts of political events; and an adaptive political system, which copes with changing demands and environment.

In relationship to PPP, many scholars observe that most of the public-private Partnership challenges emerge from the implementation phase of the partnership (premised largely on the realities discussed earlier) and that those challenges are mainly managerial and governance in nature (Jones, 2005; Jones & Noble, 2008; Weihe, 2008).

Having reflected on the specific realities characterize and are specifically foregrounded at the post contractual stage - including the a) the inherent incompleteness of contracts to address the inevitable changes, b) the foregrounding of underestimated complexities, and c) the long-term interaction that creates room for uncertainties to emerge, and articulated the meaning of governance, the following section delineates the important governance related challenging issues based on international PPP literature. These issues are thematically organized.

It is important to note that the delineation of themes and issues from the international literature rather from the research context of Uganda is mainly informed by the very limited research on the PPPs, and in particular on the post contractual governance in Uganda. In fact this reality shapes some of the important analytical and procedural decisions taken in the gathering data, analysis and reporting as further discussed in the methodology chapter.

2.9: Governance challenges in PPPs: Themes and Issues

The specific governance related challenges are organized into five thematic categories including:

a) Fundamentally competing Institutional and organizing logicss,

b) Complex Performance management and control standards,

c) Diverse expertise and competence requirements,

d) Dynamic Risk management realities, and

e) Public accountability and transparency.

Each of these thematic categories of challenges is discussed in the following subsections.

2.9.1: Fundamentally Competing Institutional and Organizing Logics

The significance of managing differences in partner institutional logics in all phases of the PPP life lifecycle has variously been highlighted (Rainey & Bozeman, 2000; Saz-Carranza & Longo, 2012). The attention to institutional variance among scholars studying cross sector collaboration, especially PPPs is premised on the pertinent differences that arise from the differences of the institutional settings that ordinarily exist between the public and private sector organizations and the effect it has on the effective performance of the PPP projects (see also Klijn & Koppenjan, 2000; Klijn & Teisman, 2000a; Teisman & Klijn, 2002a; Ramiah & Reich, 2006; Mann et al., 2007; Vining & Boardman, 2008b; Tierney et al., 2010). In fact, arguments have made of rarity of situations in which the private and public sector closely work in partnership. Ramiah and Reich (2006:396) for instance described the dimensions and extent of difficulty stating that, "bridging the different goals, values, and processes of public and private organisations is hard work".

Such is a fundamental challenge of its own but it infact goes further to act as a prelude to a number of other institutional and organizational oriented challenges involved in the use of PPPs. For instance, Klijn and Teisman (2000a) identified that partners rarely undertake joint decision making and continuity in the partnership. These make specific observations relating to the partner's differences in priorities, interests and the partners differing requirement for institutional setup. They state that: [There are] "various institutional barriers, which are related to the classical separation of the public and private sectors [...] each of these worlds believes to require its own institutional framework with special rules" (p. 90). ".. both parties tend to give priority to their own considerations, which has led to classical principal-agent problem" (p. 88). ".. sticking to one's own narrow interests can lead to very meager results" (p. 93).

Klijn and Teisman (2000a:88) also explained the challenge of deferring logics and self-interest as well as the separation of market control versing hierarchical control, with market and hierarchical equated to public and private sectors respectively. They advanced that this difference leads to a dilemma where: "the planning process is being organised by public actors, reducing the private actors to simple implementers". As a consequence, the identification with the master plan, particularly from the private partner's perspective will be low. With a foundation for contestation arising from such a formative context, they concluded that "tensions that arise from the interdependency and competing self-interests of the partners have to be solved adequately: they will not disappear by themselves" (p. 93). As a solution, the researchers proposed a combination of three forms of strategies including what they describe as: process management, project management and network constitution strategies.

The classical separation of sectors, i.e. the public and private, was also a subject of another study by Teisman and Klijn (2002a). Using Mainport Rotterdam in the Netherlands as the empirical context, they reached a conclusion that the existing governmental organizations were not capable to develop and go in the partnership schemes. In the same vein, a later study by

Keast et al. (2004) reached a similar conclusion, arguing that is it a prerequisite for the use of networked, collaborative modality to address public problems that the public sector builds new and innovative ways of thinking over the traditional to be able to collaborate with the private sector.

In their further elaboration of the sector differences, Teisman and Klijn (2002a) suggested that the willingness to search for mutual solutions and the sharing of information between partners is important for PPPs. But the behavior of the public sector is often contrary. Instead the public sector prefers to retain their primacy in the process and often the consequence of that is the active or passive withdrawal of the private sector by opting not to bring their knowledge and efforts into the partnership with the public sector. The researchers also noted the disconnect arising for the hierarchal control of the public sector where politicians and administrators control the processes and are unwilling or unable to cede that control to shared arrangement. They noted that, “the government is unwilling to abandon its formal superior position, mainly because hierarchy is the only representative democracy model ‘we’ are familiar with that has shown its quality” (Teisman & Klijn, 2002b:199) . The orientation challenges the synergy building and new solution development.

Tierney et al. (2010) identified further lines of difference. Utilising the ‘global’ e-health sector partnerships and their research context, the researchers identified four important challenges and barriers to partnership success. The initial two of these barriers relate to differences in cultural and geographic setting and in the miscommunication as well as misunderstanding. In this regard cultural values as well contextually shaped expectations will challenge, especially, transnational collaborations where cultural clashes can occasion miscommunication and misunderstanding. In this regard the authors concluded that such differences can emerge as "major impediments to transnational collaboration especially among in-experienced partners" (p. 271). These impediments to Tierney et al. (2010) can however be ameliorated by mentorship based interaction between the less and more experienced partners. In the similar vein, Ramiah and Reich (2006) emphasized the importance of partners utilizing both formal and informal mechanisms to share information and to learn more about the partnership through interaction.

It is particularly critical at this point to take note of the negative effects of the variances on the sets of expectations between the partnering entities on particular issues that have substantial effect on the overall performance of the partnership arrangement. Such variances are mostly associated with the differences in the ways that the partners view and address issues. Again taking a lead from the well documented Australian case of the Cross City Tunnel (CCT), differences in expectations and the views on important issues such project design, total project costs, anticipated patronage rates, and user tolls was evident in this case (Johnston & Gudergan, 2007a). Ironically, this contradiction happened alongside very little communication between partners to work towards addressing the issues in an amicable and timely manner. These differences alongside very little communication precipitated a rapid decline in the partners' relationship (Johnston & Gudergan, 2007a; Siemiatycki, 2013). In fact, as Johnston and Gudergan (2007a:575) reported, at one point "most of the governmental employees, including the main government negotiator, were either dismissed or resigned" which exacerbated a communication challenge in an already fragile relationship.

As a response scholars have underscored the criticality of establishing effective communication channel between partners to facilitated partnership success (Jacobson and Choi (2008)). Tierney et al. (2010) in particular underlined the importance of putting in place an effective communication channels among partners willing to share information in the interest of coordinating their action in the course of the partnership.

Neal (2010) also emphasized the role that PPP management and leadership ought to have the capacity and capability to engage with the various members in a way that facilitates the creation of environments for effective internal and external communication and synergistic interdependence. But Lasker et al. (2001) explain that 'synergy' in partnership relationships can only result from partnership management exercising flexibility and supportiveness and opposed to rigidity conformity to traditional and bureaucratic control systems that are less adaption and less compromising

In addition, the primacy of an efficient documentation and analysis system to help with timely decision and partnership functioning tracking has also been outlined. For instance, (Lasker et al., 2001:194), assert the efficient documentation and analysis work as "the 'glue' that makes it possible for multiple, independent people and organisations to work together" (p. 194).

But, developing an effective communication system, particularly in times of conflict between parties, is not a simple task to actualize. To Neal (2010) the background and other contextual differences surrounding interaction make it even more onerous for system of effective communication to be achieved. Neal observed that, *"when partners come from diverse racial,* *economic and professional backgrounds…., in some instances, member organisations remain wary of each other's motivation and are not ready to share their resources or power" (p. 181).*

Mann et al. (2007) also identified two main challenges to partnership that reflect on the partners fundamental disconnect and are thus of great importance in the context of this discussion. These are: working rhythms and partner disparity. Mann et al posited that:

[In terms of the differences in working rhythms], *"the public sector is apprehensive about the private sector's fast track and feels misunderstood in terms of its processes. Private sector representatives complained about the government's slowness in action and bureaucracy"* [in terms of partner disparity],*"a very serious pitfall is for a partner to underestimate another partner"* (Mann et al., 2007:5).

Similarly, Schaeffer and Loveridge (2002) provide a well-articulated explanation of the themes of difference between the public and private sectors and the effect the differences have on the partnership process. The authors particularly pointed to critical philosophical, managerial and legal differences that exist between the two sectors. In their exposition, the authors premise on differences on a number of specific issues that are fundamental sources of differences including the mission statements, lines of accountability, approaches to decision making, power, perspectives on risk, as well as the way and extent of scope of work in the differences sectors. These fundamentals, they posited, deeply underlined the way each sector managed and as such had a bearing on the partners' views of the ongoing cooperation. An identical observation was made by Klijn and Teisman who studied the processes and outcomes from the differences between partners and posited that "rules can differ between networks, can conflict with one another or can simply block interaction with actors from other networks.. [and].. while interdependency between actors is the reason for the cooperation, it may also lead to inertia and interaction blocking" (Klijn & Teisman, 2003:142).

A number of other investigations confirm the presence of conflicting ideals and goals between the public and private sector partners and their diverse implications. For instance (Vining & Boardman, 2008a), established likelihood of conflicting partners goals raising transaction costs as well as externalities. The researchers particularly argued that while for instance the private partner seeks to maximize risk adjusted profits across the life time of the agreed contract, the public partner on the other hand seeks to minimize the total anticipated short term, on-the-budget expenditure costs.

They argued that the private sector wishes to maximize risk-adjusted profits over life of the contract, whereas the public sector wishes to minimize the sum of the expected short-term, on-the-budget expenditures and political costs in the same contractual period. Articulating these parallel intentions clearly and in advance is critical as they foreshadow the conflict justification in the implementation and management of PPPs (Vining & Boardman, 2008b).

Understanding and effectively addressing the differences among partners before they result in PPP failure is of high significance. The well elaborated case of the Australian CCT project depict the outcome when partners act bilaterally but with limited involvement of either party and sometimes unilaterally until a point where any remedial actions were ineffectual to save the partnership from failing (Johnston & Gudergan, 2007a; Siemiatycki, 2013). For that reason, Pessoa (2008:313), proposed for set of ongoing interactions, prior and agreement of objectives and methodology, and a clear division of responsibility and labour among the partners. Pessoa also emphasized the importance of “an interest and a commitment of some individuals to make PPP happen” (p. 313). Equally important is that (Pessoa, 2008) submission that there ought to be active shift by the public sector from the routine and traditional client-contractor approval to central partnership functionality for supervision and regulation. And on the other hand for the private sector to assume more responsibility and risk in the project execution, operation and sourcing for of the necessary resources. By so doing, the partners shift traditional contractual relationship to an actual partnership where the third “P” entails a truly collaborative relationship (Pessoa, 2008).

In nutshell, the navigating the classical dichotomy between the private and public sector or alternatively put, between markets and hierarchy, is of high significance for post contractual governance of PPPs. But it offers less in terms of understanding the particular context in which PPPs operate or interact in actual reality (Klijn & Teisman, 2000b) nor the specific details of a particular project interaction that could led to or raise the gap between the participating partners in the project. In other words what is known can only amount to a broad set of diagnosis and prescription requiring specific empirical verification to arrive at specific impact of these differences on the governance of PPP project and thus reflect a gap in the body of available PPP literature. Parallel to this, the effective management of differences calls for high management expertise particularly in organizational contexts seen as very sophisticated and uncertain in the governing complex formations involving multiple organizations, sectors, networks, or alliance such as Public Private Partnerships.

Theme summary

This theme highlights the issues under the broader challenge of competing rationales among the PPP partners and features the following gaps and weaknesses. First, literature is more focused on the differences of interest among partners as it relate to the expectations in joining the partnership. In other words the partners differences are centered on that they each hopes to benefit from the partnership. While such formative differences are important, and indeed shape the commitments made in the contract, the literature does not address the character of these differences and how they manifest at the post contractual phase of the partnership. Secondly, because of the literature focus on the precontractual manifestation of the differences as well as over reliance on the historical divide between the market and bureaucratic mechanisms, little emphasis is placed on the significance of any intermediate interests that are not necessary foreseeable at the precontractual phase but can only become evident at the post contractual phase with possible new stakeholder emerge and influence the course of the partnership. Thirdly, the extant literature is also silent on the strategies that actor use to reconcile or adapt to these inherent difference at this phase of the PPPs life cycle. Table 2.1 provides a summary.

Table 2. 1: Summary of Key Issues and weaknesses on Competing Partner Logics

Main theme	**Important issues**	**Gaps and weakness in the literature**
Public and Private partners competing institutional and organizational logics	• Partner come with varying interests and outcome expectations • Differences in values and philosophy • Differences in methods of delivery	• Little focus on how differences manifest after the contract is agreed • No consideration of emerging interest from emerging stakeholders during implementation • Silent of strategies used by actors to respond or adapt at the post contractual phase

Source: Author

2.9.2: Complex Performance Management and Control Standards

Sustaining the performance of the PPP project during the implementation is a critical and challenging governance aspect at the post contractual phase. Many PPP researchers contend that sustaining a consistent monitoring and evaluation is a critical to effective modality of PPP (Lister, 2000; Zafar Ullah et al., 2006). Knichman and Stone (2007), for instance, asserted in their study that keeping the project under the ‘radar screen’ was an important factor for success during the implementation of the ‘Cash and Counseling’ initiative. But to effectively monitor the implementation of the PPP projects, the determination and mutual agreement on the performance parameters as well the necessary reporting mechanisms ought to be concluded prior to the implementation.

Irvin (1993, p. 18) argued that to be able to determine the necessary performance parameters and the performance reporting mechanisms, the partners ought to be able to identify specific issues or sets of issues that are “perceived as potential problems in the future”. Similarly, in order to maintain control Irvin suggested for the creation of the Project Management Oversight (PMO) program that he contends had worked on the privatisation projects. In principle, PMOs consist of independent experts in different fields relevant to the projects and its performance and its works as an early warning system that notifies government to any problems or challenges such that any correction action determined can be taken. In addition, PMOs assures that standards set are complied with in the course of the implementation of the project (Irvin, 1993).

The primacy of setting outcome or any results measures as suggested by Irvin (1993) is echoed by many other PPPs scholars that have recently focused on studying the performance of PPPs.

But there are challenges to effective practice. Schmieg and Climko (1998) highlighted that performance measures often come as an afterthought when they indeed should be the actual starting point. By partners determining at the initial phase the results or outcomes and their measurement, the partners quite easily arrive at an understanding of how the delivery of the project and the results are to be measured in the course of implementation. Prior determination of the results and results measurements enable potential points of conflict to be mapped and to be dealt with quickly before they lead to difficulties in the relationship. For that to happen, Grimsey and Lewis (2004a) have advanced the importance of determining a reporting system, measures of performance, sets of quality standards upon which to control the performance of the project. The other recommendation that Grimsey and Lewis make is for the development of a structured performance monitoring system that aid to continually assess the 'health' of the project in the course of implementation.

Theme summary

The management of control of performance at the post contractual phase is important in PPPs. In this theme the identified literature weaknesses are as follows. First, the literature does not focus on the ongoing performance monitoring challenges at the post contractual phase of the PPPs. In other words the emphasis of the literature is on agreeing on expectation in as much a clear way as possible and mostly expecting that the partners will deliver and perform as committed. Secondly, although the changes and complexity are expected over the long post contractual phase of the partnership which can alter the performance commitments made, the available literature does not focus on the of performance related changes and complexity that emerges at phase of the partnership. In other words the literature appears to assume that performance expectations set are capable of withstanding the changes over a long period of time – as issue that requires further consideration. Thirdly, how do partners or pertinent actors in the PPPs manage the important parametric and performance reporting requirements revealed by the context of complexity is an important omission in the literature. This is particularly pertinent in regard to the revelations of deeper complexities involving many actors with different expectations over a long period of time. Table 2.3 below provides the summary of the key issues and weakness on the theme.

Table 2. 2: Summary of Key Issues and Weaknesses on Management and Control of Performance

Thematic challenge	Important issues	Gaps and weakness in the literature
Management and control of performance	• Consistency in monitoring and evaluation of performance • Partners disagreement in on changes in performance parameters • Independent project performance monitoring • Timing of the development of measures	• Unclear responsibilities on monitoring and evaluation • Nature of changes to parameters post contract • Silent on actor strategies to changes in parameters

Source: Author

2.9.3: Diverse Expertise and Competence Requirements

It is variously argued by scholars that availability of management skills and expertise among important actors is one of the main prerequisites for successful management of PPPs (Acar et al., 2008). Acar et al. (2008), for instance, have observed that little empirical research has however been conducted on what exactly constitute the expertise and the competence in the context of multi-stakeholder, multi-organizational, multi-sectorial, partnerships and alliances. In a similar vein, other researchers have advanced the necessity for more research to explore the specific kind of skills, experiences and know how that are necessary for the effective management of such collaborative arrangements. Moreover the need to advance understanding and to learn the different alternatives methods to managing in cooperative setting is abound (Noble & Jones, 2006; Bach & Whitehill, 2008; Jones & Noble, 2008). In fact Jones and Noble (2008:113) contend that partnership managers “may need to change their managerial style and mindset to enable them to cope with a PPP’s unique environment”.

In particular, the requirement for leadership and directing skill sets among partnership managers has been underscored by a number of partnership researchers (Hartman et al., 1999; von Malmborg, 2003). Hartman et al. (1999) for instance utilizing a concept coined earlier authors (Chrislip & Larson, 1994) to posit that collaborative leadership as a necessary ingredient for the successful management of partnerships. They specifically identified collaborative leader and placed their relevance in the context for partnership noting that these are “individuals and social entities who have the credibility and entrepreneurial initiative to bring the right individuals, organisations and constituents together constructively to create vision, solve problems and reach agreements” (Hartman et al., 1999:257).

In that regard, it therefore follows that the techniques and skills developed for the traditional hierarchical system of governance will require to be modified to apply and be useful in the context of collaborative and network based organizational formations as such as PPPs. Premised on that assertion, Acar et al. (2007) suggested a set of management competences for collaborative organizational contexts. They advanced that for effective management of partnerships, nine skill categories are important including: communication skills; connectivity and connective skills; collaborative attitude and skills; convening and coordinating skills; congeniality and collegiality; caring for and championing clients; coaching and consulting skills;

creativity; and credibility skills (Acar, et al., 2007). Further, the authors expounded by building the 'Competing Value Approach' as their analytical framework to conclude that in the context where managers (public or not profit) are confronted with a series of competing values and demands that tend to concurrently pull them in different directions, managers "must play multiple roles and have multiple sets of skills" Acar et al. (2007) (p. 34). For researchers, the specific context of where the focus is on exploring responses to governance challenges in the context of partnerships is of critical relevance. In particular, the competing values can be directly associated and derived from the early discussion in this review focused on the institutional differences between the privates and public sector in regard the philosophy, managerial and legal set ups.

These differences generate contextual identities for organisations and structure in which two dimensions can be characterized by a) flexible versus control and b) internal versus external. The interplay of the dichotomies then generate requirement for unique sets of four skills required of managers including boundary-spanning; human relations; coordinating; and directing. But it remains unclear how in the context of governing a partnership at the postcontratual phase this PPPs skills are relevant and in what kind of proportions. Further, it is also unclear how partnership actors develop and apply the skills in the course of the implementation of the partnership. To address such questions as they challenge the governance of PPPs at the implementation phase, empirical research has been suggested to explore the actual context of partnerships.

As such competence deficiency in managing PPPs at the implementation phase represents an important aspects in the current level of understanding and management of PPPs. An earlier report published in the UK for instance in 2008 by the House of Commons' public accounts committee (Pace, et al., 2000) observed that the lack of commercial expertise among the public sector managers to oversee the big financial projects over a prolonged period of time (Read, 2008). The concerns on the inadequacy with the public sector ranks of staff with the requisite skills and experiences has been a persistent challenge ever since popularization of the private finance deals in the mid-1990s (Russel, 2008). In fact, in 2008, the HM Treasury commissioned a study to understand how well the UK was managing its the Private Finance contracts (Russel, 2008). In all, the capacity in terms of the peculiar skill and competencies to effectively manage a dynamic and prolonged phase of implementation in networked, mutiorganisational, multistakeholder and multisectoral arrangements such as PPPs is an issue of high significance.

Theme summary

The review of the thematic challenge on management expertise and competence reveals the following gaps. First, the literature is dominated by capacity related discourse focused on the precontractual phase where such skills as planning, forecasting and negotiation are primed yet the nature of the skills and competence requirement at the post contractual phase of PPPs remain largely unclear. Secondly, the literature available on the implementation phase of the PPP is also lacking in regard to understanding how actors generate the necessary skilled to respond to the unique needs of the post-contractual phase. In other words how do actors acquire the necessary capacity to cope with the uniqueness discussed earlier that the post-contractual phase bring is largely unclear in the current body of literature. Table 2.4 below provides a summary of key issues and weakness on the theme

Table 2. 3: Summary on Key Issues and Weaknesses on Management Skills and Expertise

Main theme	Important issues	Gaps and weakness in the literature
Management skills and expertise	▪ The nature skills and competences required needs to match the new unique conditions of the post contract phase ▪ The need for the public actor to develop collaborative as opposed to hierarchical management skills ▪ Dynamics of control change, flexibility vs control and internal vs external management ▪ Public sector lack of commercial expertise to supervise projects	▪ The nature of skill and competence requirement unclear ▪ How the actor develop the necessary capacity to cope with the mutating nature of the post-contractual phase requires research

Source: Author

2.9.4: Dynamic Risk Realities

Managing the risks that partnerships are exposed to is an important challenge for partnership actors in governing the post contractual phase of the PPPs. Within the specific focus of the study, principal post contractual phase risks in Public private partnerships are delineated. The European Commission (EC) guidelines define risk as 'any factor, event or influence that threatens the successful completion of a project in terms of time, cost or quality' (European Commission, 2003: 52). Relatedly, others authors describe risks as '… the uncertain possibility of something going wrong that can result in increased cost or cause delay' (Hardcastle & Boothroyd, 2003:573). It is important to state explicitly that the effect of risks can be both direct and indirect. Directly, risks can impact on the costs of the project and indirectly can impact on the quality and quantity of services provided or goods produced.

There exist a wide arrange of risks that PPPs in general can face in the direct phase of PPP lifecycle. These risks can vary in type and magnitude depending on the form of partnership agreed, the sector and nature of services or goods provided, and the national context in which the PPP is being implemented. In their study of the PPPs risks in infrastructure projects, Grimsey and Lewis (2002b), provides an array of possible infrastructure PPP projects risks across different phases of the project lifecycle. Specifically, they identify the nine types of risks including: technical risks; Construction risk –relating engineering and design failures; Operating risk – relating to flaws in operating techniques; Revenue risk – relating mainly to insufficient demands; Financial risk – relates to revenue and financing costs; Force majeure risk – relates to wars and calamities; Regulatory/political risk – relates to changes in government and/or public policies, and changes in laws and regulations pertinent to PPP operations and asset ownership; Environmental risk – relate to adverse impact of the project on the environment; Project default- relates to overall failure arising from one or a combination of the risks described (Grimsey & Lewis, 2002b).

The European Commission guidelines discuss eleven types of risk as follows: revenue risk, construction risk, foreign exchange risk, regulatory (contractual) risk, political risk, environmental risk, latent defect risk, public acceptance risk, sustainability risk, hidden protectionism, and risk involved in the choice of a private sector partner (European Commission, 2003). The European Commission's mapping of risk is similar to the Grimsey and Lewis (2002b) classification except the addition of the foreign exchange risk – that relates to changing value of a domestic (national) currency compared to major world currencies; Latent defect risk – that to the potential technical flaws (what Grimsey and Lewis (2002b) called the technical risk); Public acceptance risk – relates to the willingness of the population to use the PPP services; sustainability risk – relates to whether a project can continue for the full length of its term as citizens' preferences may change, or the service may become outdated; Hidden protectionism – this relates to creating a private monopoly that the government protects from competition; and Risk involved in the choice of a private partner – relates to private partner's lack of experience or commitment to a PPP project.

Although the classification of the European Commission (2003), and an earlier one by Grimsey and Lewis (2002b) both provide an array of possible risk in PPPs, the ECs extended classification provides more specificity and clarify on some of the important factors. Overall however, these two classifications can be considered complementary in understanding the full breadth of risks in the implementation of PPPs. As alluded to earlier, these are all potential risks and the occurrence of any of the risks will be influenced by a number of other factors including the lifecycle phase of the partnership. As this study is concerned with the post contractual governance of PPPs, the focus is placed on identifying the experiences of actors on the risks akin to this phase of the PPP lifecycle. A review of literature on risk at the post-contractual phase raises the primacy of three important risks. These include: regulatory risk, stakeholder opposition risk, and revenue risks.

Regulatory Risk

Regulation is part and parcel of the life of any business and in the course of operation, all businesses have to contend with the possibilities and realities of regulatory changes. It is however important to explicitly note there are regulations that apply equally to all businesses and those that are specific. General regulations that may apply to all businesses (or atleast to large set of businesses) for instance my include regulations of employment relations through employment law and environmental regulations. On the other hand, specific regulations may include for instance the price regulations for monopoly services and oversight of PPP arrangement. In this regard, regulations for PPP belong to specific regulations category. The risks in regulation occur where there are changes to the regulatory provisions that threaten the health of the project. But the effect of regulatory risk in business varies by ownership of business.

Under public ownership, the risk from regulation is internalized. For instance, if the government makes a directive to the public enterprises on specific issues or aspect, say to increase quality or reduce the price of the service offered, any risks of such a change are borne by the government. The government may bear the costs interms of reduced earnings or incurred higher costs as result of increased quality and the benefits go to the users who are also citizens. Conversely, under public-private ownership, risks from regulation generate transfers between the public partner, the private partners and the service users that affect the balance of expectations. These transfers generate conflict that lead to consumption of resources in litigation, lobbying and risk management strategies from the aggrieved partners, often the private partners.

Although certain regulatory risks my anticipated and their reduction planned for through provision of guarantees and by ensuring private partners that 'rules will not be changed to their disadvantage or that compensation will be provided if rules are changed', the extent of prediction of these risks is undermined by the nature of the post contractual phase characterized by foregrounded complexity and longevity of the interaction. In addition, such guarantees reduce the capacity of the government to respond to new information and discretionary regulation is desirable in contexts where the it is not possible to have well specified rules in advance because of limited or no information. Although this suggests a very high likelihood of regulatory risk at the post contractual phase of PPPs there is limited research that reveals the actual nature of these risks and how the actors respond to these risks at the post contractual phase for the PPP lifecycle.

Similarly, the literature on the principle of optimal risk allocation, as it relates to the regulator risk is that 'the more significant and complex the regulatory risk the stronger the case for public ownership'. The suggestion is focused on the dichotomy of either private or public mode of service mode provision such that response mechanisms to determination significance and complexity of regulatory risk only leads to a choice (of either private or public) as the possible modality of delivery. This is not only a false choice in regard to modality of service delivery and public asset management but also the principle does not take into consideration a situation of emergent complexity only foregrounded at the post contractual phase that may inevitably call for complex and intrusive regulation while maintaining context of partnership based service provision. This gap in the literature now needs to be addressed with the exploration of actors' experiences of this risk and responses at this phase of the PPP life cycle.

Stakeholder opposition risk

The literature also raises the primacy of the stakeholder opposition risk at the post-contractual phase of the PPPs. Although scholars present this risk with some terminological variations, such as public acceptance risk, most commonly the literature uses the terms interchangeably and as such viewed as synonymous rather than substantially different. Overall, stakeholder/public opposition/acceptance risk denotes a degree of willingness or unwillingness of the population to use the PPP service. With the nature of risk distribution across the public and private partners revealed at the post-contractual phase through the quality of service and charges levied, the citizens/users can take retaliatory action.

Stakeholders can exercise user choice in a number of ways such as paying or refusing to pay for the service, use the service option available, for instance incase of road, use the free public road available. The other action stakeholders can take is to use the institutions by complaining formally through official means and legal means and/or unofficially through informal and sometimes illegal means. For instance challenge the decisions of the private operator through public interest litigation or attempt illegal means to access the service, as such illegal connection in the case of utilities like electricity or water. As a result, disruptions to the operations of the PPP may occur. For instance underutilization of the service will lead to lower than projected revenues that may require government to subsidize the costs or to compensate the private partner in situations where a certain level of demand was guaranteed.

Moreover, public lack of acceptance may also have political ramifications for the government arising from perceived or actual misuse of tax payers' money. In Uganda where the many people became accustomed to freely provide or highly subsidized public services such public health facilities, free roads, subsidized electricity, the public acceptance risk is potent and requires understanding. Despite and increasingly popularized policy position in Uganda for use of PPPs and availability of some project at the post contractual, little understanding the nature of the stakeholder opposition risks and how actors in the management of PPPs adapt to challenges, a gap in the literature that requires readdress.

Revenue risk

As with the regulatory and stakeholder opposition risks, revenue risk emerge from the difficulty in accurately forecasting complexities and nuances that can impact on the revenue flows at post-contractual phase over a very long period of time. Factors that influence the level revenue flows such as tariffs (or prices), commercial and technical losses, levels of utilization all influence revenue yet their exact nature and level of influence can hardly be assumed with a good degree of accuracy at the pre-contractual phase. The revelation of the effect of such factors can only become apparent at the operation phase and will effect will keep unfolding for the entire long tenure of the partnership.

To the extent possible, at the pre-contractual phase partners attempt to make projections based on available historical data and make assumptions regarding any possible factors and changes that could have a bearing the projections. But these approaches, like for most pre-contractual activities, are rife with untested assumptions that the realities at the implementation will challenge. The EC report actually acknowledges the uncertain ability of historical data not that it may or may not be a reliable basis for estimating demand. The EC notes, for example, that it is challenging to forecast the consumer's reaction to unsubsidized prices for goods or services that the government has previously subsidized (European Commission, 2003). This applies to projects in a range of infrastructure and asset based services such as energy supply, water, health, education, transportation.

Other factors may also influence the projects revenue flows such as affordability. For example in the transportation, a toll road will depend on the user's income and the level of automobile ownership in that country or region. In countries with low levels income, people may prefer to use slower routes but free than to pay a toll. In some instances, low level of affordability of necessity services will also lead to high default payment rates and heighten the partnerships commercial risks. For instance consumers may require electricity but unable to afford. As a result the will either default or make illegal connections to continue accessing the energy which affect the revenue projection and flows of partnership. As such, a thorough understanding of the revenue risks in PPPs contexts with the history of high public service subsidization prior to the partnership and persistent low level of income and affordability in the course of the partnership as a gap that require further investigation.

To that end, this study explores, in the context of Uganda, the actors experience in regard to these risks and the kind of tools and mechanisms that partners use for risk mitigation in the course of the implementation, in particular at the post contractual phase. In this regard the overarching goal is to understand whether the existing risk management mechanism at an integral phase of the PPP lifecycle impedes or facilitate PPPs.

Post-Contractual Risk Sharing, Shifting, Shirking

That having been said, in the context of partnerships the allocation of these kinds of risks amongst the partners thus becomes a central governance concern. In fact growing amount of scholarly works and practitioner guidelines on PPPs is devoting on mapping these risks and discussing the risk allocation (Hodge, 2004; Hood et al., 2006; Marques & Berg, 2011). It is important to note that a discussion on governing risk allocation can be viewed from two sequential viewpoints – at the pre-contractual and post-contractual points, with the former being an important prelude to the latter.

At the precontractual stage, the anticipated risk allocation is reflected in the contract, with the intention to avoid or remove ambiguity at on which party bears the responsibility in the event of the risk occurs. The general principle is that parties share risks in partnership as they do with the benefits of partnership (Klijn & Teisman, 2003). But because partners come to the partnership with varying intentions and capacities, the allocation of risk is an outcome of negotiation process that includes agreeing compensation for acceptance of the risk. As indicated, researchers often view the outcome of risk identification and risk allocation as an important PPP success or failure factor especially for major infrastructure projects with high investment requirements (Hodge, 2004; Hodge & Greve, 2005).

The second level, which is the central concern of this study, relates to the allocation of risk at the post-contractual phase. In other words, notwithstanding the pre-contractual allocation reflected in the agreements, how actually do partners respond and bear these risks in the course of implementation. Some scholars have argued that will largely depend on the interaction of partner's (Hodge, 2004; Hofmeister & Borchert, 2004). In reality, even with the very best effort, making completely accurate assumptions about the future is difficult. As a result, not all risks may be explicitly spelt out in the contract requiring additional negotiation.

Moreover, in the long course of implementation, circumstances any of form and magnitude could arise and alter the balance of commitments and responsibilities and requiring reallocation of risks, obligations, responsibilities and costs as deemed necessary. Some of these circumstances could include changes in the institutional, political and economic reforms and or different international influences. At the pre-contractual phase the partners cannot fore see this challenges and therefore cannot be provided for. For instance the formation of a supra national governance body which may influence domestic regulation of public services or country's decision to join or leave a regional trading bloc could significantly alter the demand for the service. In such cases the initial risk allocation can severely be challenged calling for partnership interaction to recreate a mechanism of risk redistribution and the attendant expenses (Brinkerhoff & Brinkerhoff, 2004).

General guidelines exist for best practice risk allocation. For instance, EC guidelines indicate that 'risk should be transferred to the party best able to manage it in the most cost effective manner' (European Commission, 2003). In other words, as opposed to applying some 'rule of thumb', the costs should instead premise the allocation of risks such that the partner that would incur the least cost to respond to the risk if occurs ought to bear the risk. The idea is that the cost of covering the risk has the direct implication of the user cost of the partners that assumes such risk. If the private sector assumes the risk then the risk has to be compensated by either the service users through user fees or the government. Therefore more the risk that private partners assume to more the government will have to pay. As the EC observed, '… The degree of risk transfer to the private sector will influence the overall cost of the project to the public sector as all risk will be associated with the price premium. Therefore the objective must be to achieve a cost effective risk transfer, not simply a risk allocation for its own sake' (European Commission, 2003:52-53). Besides, the cost consideration, the risk allocation must also serve other objectives, which include (a) reduction of long-term project costs; (b) creation of incentives to deliver projects on time, to required standard and within the budget; (c) improvement of quality of service and increase in revenue through efficient operation; and (d) ensuring consistent and predictable profile of expenditure(European Commission, 2003:53). In this context, for instance, allocating the demand risk to the private sector would be inefficient, instead the payment mix to the private partner including service performance, availability and the occupancy rates can be considered.

In summary, post contractual management of risk is important for the successful partnerships. In that regard, understanding of how parties respond to risks at the post contractual phase is evidently important because of the limits to over reliance to incomplete assumptions and allocation criteria set at the contracting phase. But this is an area where little scholarly attention has been placed, particularly in contexts of nascent PPP practice experience such as in Uganda. This gap in the literature requires filling with empirical investigations of the experience of risks, particularly as it relates to regulatory, stakeholder opposition, and revenue risks, at the post contractual phase and how the actors adapt the partnership to such realities.

Theme summary

The primacy of risk at the post contractual phase of PPPs has been revealed but with a number of literature gaps and weaknesses. First, although the literature highlights the primacy of certain risks at this phase of the PPP lifecycle, the identified risks manifested are fundamentally influenced by the unique contexts in which PPP is operated. Some of the presentation of the risks will be influence by the difference in the social-economic as well as political –legal uniqueness of the country or sector of the PPP. As such, the international literature illustrations can hardly provide reliable suggestions – a situation that calls for an empirical exposition of each unique PPP context. Secondly, the literature has a deeper narrative on the categorization of risk but it is also evident that less is presented in understanding the strategies that actors adopt to respond to these sets of important risk in the course of implementation remain scant. Thirdly, the literature raises the primacy of history of subsidization and the subsequent reaction of stakeholders. It is important to reinforce that the reactions can only be experienced at the post contractual phase when the decisions are being implementation, including on removal of subsidies. These experiences remain scant in regard to the actual reaction of service users, a gap that is evident in the literature**.** Table 2.5 below shows summary of issues and weaknesses

Table 2. 4: Summary of Key Issues and Weaknesses on Risk Management

Main theme	**Important issues**	**Gaps and weakness in the literature**
Post contractual Risk	Primacy of : ▪ Regulatory risk ▪ Stakeholder opposition risk ▪ Revenue risks	▪ Very limited illustration of the nature of regulatory, stakeholder opposition, and revenue risk despite their primacy at the post-contractual phase of PPPs ▪ The actors response strategies post the contractual phase remain scant

Source: Author

2.9.5: Public Accountability and Transparency

A large body of extant literature on the governance of PPPs depicts challenge of public accountability and the transparency at various phases of the PPP lifecycle. Blagescu et al. (2005), in the global accountability framework, consider accountability 'as being open with stakeholders, engaging with them in an ongoing dialogue and learning from the interaction'. The review reveals the four important facets to the public accountability and transparency challenge in PPPs at the post-contractual phase. Although these are varied, the important issues can be organized in four interrelated facets including 1) mechanisms of accountability, 2) focus for accountability, 2) the tools for accountability, and 4) requirements for transparency.

Firstly on the mechanisms for accountability, it must be noted that the present accountability mechanisms have been designed for vertical relationships and as such vertical accountability. This is mostly premised on the long history of hierarchical control in organizations characterized by bureaucracy and principal-agent relations in short terms contracts. As a result, the context of PPPs that introduces, or in fact mandates, an horizontal relationship places a unique challenge to PPP managers, in particular public managers. As Brinkerhoff (2002:21) notes that unlike in the context of principal-agent relations that define hierarchical organizations, the conception of partnership "encompasses mutual influence, with a careful balance between synergy and respective autonomy, which incorporates mutual respect, equal participation in decision-making, mutual accountability, and transparency". It can also be argued that, unlike the public-private interactions at the pre-contractual that are dominated activities related to establishing the needs of the public sector in the prospective relationship and later negotiations, the post-contractual phase places a much wider and intense requirement for an equal and horizontal relationship between parties. In this sense, at the post-contractual phase the public entities need to consider not only the mechanisms they will use to hold their private partners accountable, but also how government will be accountable to their private partners, an issue that is scantly addressed in the literature.

Secondly, the character of the post contractual phase of the PPP lifecycle is dominated by complexity that translate into diverse expectations. As noted earlier, the revelatory nature of the post contractual phase often foregrounds underestimated complexities at the pre-contractual phase including emergence of actors and changing context that potentially demand readjustment of the accountability framework. In such a complexity, the result is that "public agencies are asked to conform simultaneously to several legitimate but often competing accountability expectations" (Dicke & Ott, 1999:511) as well as "overlapping set of independent and competing mechanisms—and a variety of independently operating accountability holders" (Behn, 2001:60).

The literature points to three important accountability requirements including democratic accountability, procedural accountability, and performance accountability that PPP actor must conform to. As such, PPP actors are thus positioned within an already existing set of complicated and often competing chains of authority. A combination of many factors thus makes the accountability less straightforward for public managers involved in PPPs. These therefore emphasize the changing demands on public accountability when government responsibilities are shared with private and nonprofit entities. In a nutshell, accountability in PPPs requires the creation of proper safeguards to ensure that public services are not compromised for the sake of private profits.

Thirdly, on the instruments for accountability, despite the existence of a number of pieces of legislation and policies, a number of challenges are bound. One of the major concerns at the post-contractual phase is that the legislation is cumbersome and complex thus facilitating a culture of "rule-bending and the tendency to use corrupt means to avoid these rules"(Fombad, 2014).

In addition, the instruments are structured to protect the interest of few stakeholders determined at the precontractual implying that the interests of the emergent or revealed stakeholders are not protected. In this respect, there is little input from citizens and other stakeholders on the postcontractual governance as the partners maynot be bound by new accountability expectations. Although it could be argued that the involvement of all stakeholder and guaranteeing their participation could further slowdown the PPP operations because of difficulty in reconciling voices, the reality is that completely excluding other stakeholders could undermine their right to participation and that undermines the provision of the constitution (Fombad, 2014).

Moreover, the literature notes the little attention accorded to monitoring in PPPs. In studying the South African PPPs experience for instance, Fombad (2014) observed that “Treasury Regulation 16 makes provision for the accounting officer or accounting authority of the institution that is party to a PPP agreement to ensure that the PPP agreement is properly implemented, managed, enforced, monitored and reported according to the mechanisms and procedures as approved by National Treasury. In reality, there are no mechanisms and procedures in place. Moreover, the institution’s accounting officer usually has little authority over the private party, because the private party is not part of the government’s democratic chain of command” (Fombad, 2014). Therefore understanding how the monitoring occurs and how it can be improved is an important gap that needs to be filled.

In regard to transparency, two important issues have emerged in literature as under explored: disclosure and corruption. The non-disclosure in PPP arrangements between the private and the public parties premised ‘commercial confidence’ and on grounds of ‘property rights’ or in some instances on the grounds of data protection raises important transparency issues. In one of the known South African case, calls have been made by political leaders for details of the agreements to be made public. The south African main opposition political party, the

Democratic Alliance, sought for contract of the Gautrain Rapid Rail Link to be made public asserting a lot had been done in secret (Campbell et al., 2011). While the requirement to protect business secrets normally warrants confidentiality and not sharing out documents in the public domain, the absence of appropriate and rigorous scrutiny by or from the public denies the public an opportunity to know any hidden costs and obligations transferred to the public sector over the long run by the private partner.

It also denies the public an opportunity to make comparisons between the alternative options which eventually undermine any possibilities to regulate and monitor the outcomes. Secrecy ought not to override the public right to know and for the adequate disclosure of information pertinent to the public and for the partnership (Institute for Public Policy Research, 2001). This is of particular importance as public funds are assigned to partnership for a long period of time. As such, the partnership needs to be willing to expose the proposals to allow for public scrutiny and participation as and where necessary.

Similarly, the shallow and inconsistent way in which the information pertaining to PPPs is disclosed raises serious transparency concerns. Citing a South African scenario, Fombad (2014) notes that "the information usually provided is limited to the name of the project, the government institution responsible for the project, the PPP type, contract duration, date of financial closure, private partner(s), financing arrangements, transaction advisors to government, value of the project, capital value of contracts signed to date, and procurement and benefit to government". Addressing this information disclosures remains an important issue requiring understanding particularly as it regards to the changes the inevitably occurs and how partners disclosure information related to such changes in the course implementation of the PPP.

To summarize, the literature emphasizes the primacy of accountability and transparency as a challenge at the post contractual phase. Aware of the unique partnership features that are foregrounded at this phase of the PPP lifecycle, alteration to the balance of responsibility, scope, and instruments of accountability occur. The responses to challenges on accountability posed by this phase have been the case of very scant research in PPPs and in the developing country contexts an important issue that calls for research redress by understanding how partners adapt to the accountability challenges posed the unique character of the post-contractual phase.

Theme summary

The challenge of public accountability and transparency at the post contractual phase of PPPs has been variously demonstrated by researchers. However in considering this important challenge in the context of post-contractual phase of the PPP lifecycle, number of important weaknesses and gaps exist in the literature that requires redress. Firstly, the literature demonstrates that the reality of an expectation shift from hierarchical to horizontal relationship of PPP implies mutual accountability between partners. In this sense, contrary to the principal-agent interactions, partners now require accounting to each other but it is not explicitly clear how partners in PPPs actually respond and practice this necessary mutuality in accountability. Secondly, as providers of public services that use public resources, PPPs are confronted with a number of accounting expectations to address, including democratic, procedural and performance accountability required by different sets of stakeholders. These place high reporting responsibility on the partners but is not clear in the literature how partners adapt to these diverse lines of accountability expectations at the post contractual stage of the partnership.

Thirdly, although fairly connected to accountability, transparency, and in particular information disclosure, remains a much contested aspect with very little known at the post contractual phase of the partnership. As already stated, the dynamics at the post-contractual phase often cause alteration to information provisions of the pre-contractual phase. In other words what was known at the point of agreement does not stand still to in the long course of the implementation which then requires that continuous information on changes de disclosed, but little empirical focus has been placed on understanding how actors responds to this disclosure requirement at this stage of the partnership. Table 2.5 below shows the summary of key issues and weaknesses

Table 2. 5: Summary of Key Issues and Weaknesses on Public Accountability and Transparency

Main theme	Important issues	Gaps and weakness in the literature
Public accountability and Transparency in PPPs	▪ Shift from hierarchical relationship to vertical relations requiring mutual partner accountability mechanisms ▪ Multiple accountability requirements ▪ Limited control of public partner ▪ Information disclosure ▪ Instruments and structures of public accountability	▪ How partners, particularly the public partner account to private partner. ▪ How partners respond to multiple public accountability expectations including democratic, procedural, and performance ▪ How partners respond to information disclosure requirements at the post contract phase.

Source: Author

Having articulation some of the important governance related challenges in PPPs from the context of the extant literature, the next section delineates important success factors for PPPs posited in the existing research.

2.10: Public Private Partnership Key Success Factors (KSFs)

Many scholars in the field of Public-Private Partnerships have made attempts to delineate what can be construed as the necessary requirements, factors and/or best practices for successful partnerships (Jacobson & Ok Choi, 2008; Urio, 2010; Liu et al., 2014; Osei-Kyei & Chan, 2015; Sanni, 2016; Osei-Kyei & Chan, 2017). The identified requirements can be categorized in many different ways located at different phases of the PPP lifecycle. Liu et al. (2014) identified number of factors along three lifecycle stages of initiation and planning, procurement and partnership. They identified some cross cutting factors such effective interface, effective evaluation and transparency. It is also evident from this study that a number of success factors were identified at the partnership stage. Some of the critical factors identified included effective contract management, effective conflict management, effective evaluation of PPP implementation, effective management of prominent techniques and skills (Liu et al., 2014).

In a review of studies conducted on critical success factors between 1990-2013, Osei-Kyei and Chan (2015) revealed the prominence of three factors including risk allocation and sharing, strong private consortium, political support and community support and transparency in procurement. Similar to Liu et al. (2014) it is evident that majority of factors are akin to the post contractual phase of implementation.

Other scholars have also made important submissions on PPP success. Two decades ago, Schmieg and Climko (1998) proposed what they articulated as the 'critical' steps to follow in developing a strategic plan to guide modern PPPs. The plan includes a linear sequence of nine (9) tasks the actors need to including: clear establishment of the partners mission; identification of a common language; establishment of the *Ulysses* contract; sustaining flexibility and pacing; establishment of the shared solutions; delegating trust; determining expectations; and eventually, creating empowerment. A critical reflection of this sequence of critical steps reveals that these tasks articulated can be recategorised as prerequisite procedures and ongoing practices.

In this regard perquisite procedures will include sustaining flexibility and pacing, developing shared solutions, delegating trust as creating empowerment. The ongoing practices on the other hand involve establishing the partners' mission, identifying a common language, establishing *Ulysses contract,* and determining expectations. These to (Schmieg & Climko, 1998), are important ingredients in developing a strategic plan to aid effective management of PPP generally.

In a similar study aimed to identify the critical success factors (CSFs), Abdel Aziz (2007), through an analysis of the program-level reports, documents and agreements for a number of UK and Canadian PPPs, identified important principles as essential features for the PPP implementation at the program level. In particular he identified the centrality of the PPP institutional framework, policy and implementation units, perception of PPP objectives and performance and method specifications as core to implementing PPPs. To that end, the researcher recommended for the establishment of two important elements including a legal framework (i.e. set of law, policies, policies and regulations) and an independent PPP unit to implement the activities. Adhered to, the researcher noted the principles and guidelines would anchor successful implementation of the PPP.

Moreover, Jacobson and Ok Choi (2008) also identified many other important factors they believe are important for the success of PPPs. Of specific relevance to this study are a) the need for a unified vision and commitment from partners, b) partners openness and willingness to compromise, c) establishment of clear roles and responsibilities between partners. In addition, reflecting on established PPP experiences of the UK, Harris (2004) identified six project level success factors. Principle of this is the development of a well-defined contract that clearly set outs the details and obligations of the respective parties to the partnership.

Relatedly, Ahadzi and Bowles (2004) analysis the precontractual difficulties in concluding PPP projects and noted that there are important capability attributes that have a significant bearing on the PPP process from a specific government perspective including the technical, organizational and financial capabilities.

To summarize, it is important to map out the practices and issues associated with governing the implementation phase of the PPPs so as to have an indication of what it would take to succeed. In fact based on the diverse factors presented in the literature, it is possible to posit that success or failure of PPP highly relate to the how the issues in the postcontractual phase are managed. But it is also critical to identify and acknowledge that there are peculiar limiting factors for the effectiveness of the PPPs.

2.11:

2.12: Chapter Summary and Conclusion

This first literature chapter has delineated the conceptual considerations of this study. In particular the functional approach to the concepts of PPP and governance as used in this study has been made. The chapter has also delineated other important considerations for this study including the justification for the focus on the post contractual phase and the identification of central areas of focus as well as indicative issues that provide a research context for the discussion of empirical findings in chapters 8 and 9 of this thesis. The next chapter delves into explaining the empirical context of this research, placing specific emphasis on national context of Uganda and sectorial context of the electricity industry.

CHAPTER 3: THE EMPIRICAL CONTEXT

3.1: Introduction

This second literature review chapter focuses on the empirical context of this study. The aim is to highlight the national context for the investigation. The chapter provides a brief coverage on PPPs in developing country contexts particularly highlighting the model's growing adoption, the nature of extant challenges, and a presentation of the status of its implementation in the context of Uganda. The chapter also elaborates on the key rationales for adoption of PPPs in Uganda and highlights some of the important policy, legal and institutional frameworks shaping the model's implementation.

The other important aspect addressed is a brief description of some selected PPP projects currently under implementation in the different sectors in Uganda. Particular focus is placed on concession type PPP projects involving asset based services in the energy, roads and tourism sectors. Throughout the chapter a demonstration of the appropriateness and necessity of Uganda as a national empirical site is made.

3.2: Public-Private Partnerships in Developing Countries

The global proliferation of PPP practice is a well acknowledged reality. As indicated in the previous chapters, developing and developed countries alike are increasingly employing the PPP modality for various reasons and in many sectors. However, the same cannot be said of scholarly efforts to PPPs and the level of success. Scholarship on PPPs in developing countries remains significantly rare and success challenged. From a scholarly view point, a fairly recent review of extant PPP literature (Andon, 2012) indicates that the discussion on PPP related issues is dominated by empirical cases in developed countries, particularly in the Europe, North America and Australia and attributes the situation to the differences in the level of PPP employment and on global dispersion of prominent scholars keen on the topic (Andon, 2012).

Indeed to enable the literature analysis for this chapter, knowledge from a wide range of disciplines and dispersed sources was considered. Consideration of practice based material from development or international organization concerned with and/or utilizing the modality in practice, was insightful. In particular, literature was sourced from practice fields such as engineering and health and from organisations that encourage and support the development of PPP in the developing country contexts such as the United Nations, World Bank, and other supranational governments such as the European Union, African Union and others.

The review of these materials confirms the disproportionality of application of the PPP model and the rampant challenges faced. It is evident that there is disproportionality in available PPP knowledge across different developing countries with some more advanced adopters than others but equally with distinticve mark of challenges in all the developing country regions in Subsaharan Africa, Latin America and Asia.

In sub-Saharan Africa, for instance, South Africa has been extensively acknowledged as one of the most advanced adopters of the PPP model particularly as it relates to the amount of investments made and the prevalence of the model’s employment across both economic and social infrastructure spheres. However, the implementation of PPP in South Africa is still grappling with certain challenges, including the ones associated to public accountability and transparency and internal organizational issues (Fombad, 2014). In other parts of the sub-

Saharan Africa, the adoption of PPP is still in very nascent stages focused on few sectors of the economy with very little explored from a scholarly view point. In addition, where the model of been employed significant challenges have been highlighted (Farlam, 2005; Fombad, 2016).

The Latin American country experiences are not any much different (Marks, 2010; Fischer, 2011; Soomro & Zhang, 2011). Despite the increasing adoption of the model in the public asset management and public services provision in important sectors, it is further noted that with the exception of Chile, most of the Latin American experiences with PPPs have been unsuccessful – largely attributed to poor legal and regulatory environment. Marks (2010), for instance, notes that countries in Latin American lack the policy and regulatory system, particularly the enabling laws to support the operationalization of PPPs. The Argentinian experiences, for instance, have been dominated with government frequent changes of the legal and regulatory framework related with the investment (Marks, 2010). Similarly, the law enacted to support the development of PPPs in Argentina is said, instead, to have created many challenges at the implementation phase (Fischer, 2011). In all, the situation hinders the involvement of the private sector companies to engage and commit to PPP arrangements.

In the Asian developing countries context, PPP has attracted wide attention and has become a topic of interest for scholars and practitioners alike. In the Malaysian case for instance, the introduction of Private Finance Initiative through the Ninth Malaysian Plan (2006-2010) was seen by scholars as geared towards government attempt at reducing direct public expenditure for the provision of Public services and infrastructure (see for example,Takim et al., 2009; Ismail, 2013). In South Korea, PPPs have been heralded as a success in particular regard to attraction of private capital and in the delivery of projects (Hong, 2016). But similar to the noted challenges in Subsaharan Africa and Latin American countries, South Korea also experienced a challenging phase in the PPP implementation with particular challenges revolving on transparency, procedural clarity, compliance with global standards, and risk sharing mechanisms (Bae & Joo, 2016).

Across the spectrum of developing country experiences the common thread of governance related failures appears explicit although with relative depictions and attributions. Some scholars attribute the dominant PPP policy and regulatory framework challenges in developing countries on the country's economic system and political approach. From a policy perspective, Qi et al. (2009) premises on the China experience to observe that many decisions in regard to PPPs are based on government judgments and decisions with little consideration on the input of other stakeholders. In the China case, this is mostly informed by the planned economy as opposed to the market economy. In regard to regulation, the constraints remain and mainly characterized by incompatible frameworks of PPP and traditional procurement. As a result different units of government develop different standards which risks exposing investor to the ambiguity of not knowing with standard to follow or comply with. This situation in the Chinese context is coupled with the inadequate expertise to employ in formulating a vigorous PPP which leaves investor with more and profound regulatory uncertainties (Qi et al., 2009).

Important instances of entanglement of the PPP with the political situation and structural set up of the country in which the PPP is being implemented are noted (Beh, 2010; Fischer, 2011; Soomro & Zhang, 2011; Ismail, 2013). In Malaysia for instance, Beh (2010) notes that as opposed to improving public procurement, the intention of complying with the 'the demand of political collaboration' was instead a profound basis for adoption of PPPs. As consequence, governance and transparency are undermined in the process resulting to higher cost along with poor quality of services to the public.

The issue of corruption, although little empirical evidence is available, is one of the common challenges found in developing country contexts with regard to PPPs. Farlam (2005), for instance, represent a case of Tanzania in East Africa where corrupt government officials, investors and contractors colluded to set up a PPP. In Indonesia, Sudja (2003) reports that an independent power producer was procured in the 1990s without following the due processes of competitive bidding as was required. A combination of political backing and donor country support in the procurement phase eventually resulted in ‘an overpriced, uncompetitive project with devastating environmental and social consequences’ (Sudja, 2003:2).

Moreover, the institutional challenges within the developing countries often have a high interaction with the implementation of PPPs (Banerjee et al., 2006; Yehoue et al., 2006; Basılio, 2011). Yehoue et al. (2006) conducted a study examining factors that determine PPP implementation in the context of developing countries and found the centrality of institutional quality. Particularly, the study noted that the institutional quality, defined by minimal corruption and effective rule of law, is an important element of PPP projects yet this remained outstanding.

To summarize, the review of PPP literature in developing countries demonstrates a growing phenomenon across the regions but also reveals a number of influential PPP governance issues and experiences ranging from economic, financial, policy, institutional and regulatory. Such issues set the foundation for the diverse difficulties that PPPs experience and require overcoming at the different phases of PPP development, from pre-contractual to post contractual, and as PPP interact with the local contextual circumstances over their characteristically long tenure. It should however be noted that because of the limited implementation experience of PPPs in the developing countries, the issues and experiences currently dominating the scholarly attention focus more on nascent stage considerations and significantly less post-contractual discourse is available – a gap in the literature that this study contributes in filling.

Having provided a description of the broader developing countries experiences and mapped the important issues, in the following subsection, specific contextual description of Uganda is provided. Particular focus is placed of unpacking the nascent PPP experiences and the important informative and enabling frameworks for the modality.

3.3: Public Private Partnerships in Uganda: Key Drivers and Rationales

Broadly, Uganda has engaged with different forms of private sector participation in public services and infrastructure delivery for a long time. Like many other countries, the private sector participation initially only involved contracting out and outsourcing forms. In applying these traditional models, the relationship between the public sector and government with the private sector entities was purely a commercial transaction. However, many drivers and rationales have since led to adoption and application of collaborative models involving long-term partnerships between the private sector and the public sector in the service and infrastructure provision.

Firstly, a significant marker of change in approach occurred in the late 1980s and early 1990s with the international proliferation of market driven ideals urging for more efficiency in the public sector. In fact in 1993, the government of Uganda passed into law the Public Enterprise Reform and Divestiture Act (discussed in detail later). This legislation is thought by many actors as the basis upon which Uganda morphed into the practice of Public Private Partnership.

Secondly, given an increasing need for the complementation of the resources required for the investment in the economic and social infrastructure in the country, the government of Uganda has acknowledged the need for long-term funding and exploration of alternative sources for resources to limited public funding avenues. This resource based context is central to the more recent consideration for Public-Private Partnerships as an increasingly adopted policy instrument. In fact, over the last two decades, the Ugandan government has made a frantic attempt to consistently increase funding for the development of infrastructure but the resources remain insufficient to meet the needs (CSBAG, 2018). The World Bank estimates that addressing Uganda's infrastructure deficit would require sustained investment of almost US$ 1.4 billion per year in the medium-term to meet the gap (World Bank, 2017).

Thirdly, the rampant inefficiencies in the public sector translating into failure to provide the much needed public services provide further rationalisation. In rationalizing the public sector reform and in particular the involvement the private and/or in paralleling it with the withdrawal of the public sector in a particular sector and/or entity, government reasoned that the private sector would infuse the much needed resources and expertise into the sector or entity and enable better and efficient service delivery (National Planning Authority, 2010; 2015).

Fourthly, the decision to adopt PPP was also supported by the experience of three decades long privatization program. The privatization program included substantial public sector reform program focused on the liberalization and the deregulation of significant facets of the economy to create the environment for private sector participation. Private participation through PPP appears, in the Ugandan context to have played three roles. First, PPP were seen as a cautious exit strategy for the state that would not risk it all to the untested private sector. Secondly, it also appeared to be fall back for instances in which the private sector may not be able to step up and need support from the state to deliver services. Thirdly, PPPs acted as correction to the ills of privatization. In fact building from the later, PPP arrangement did not carry "the baggage" some of the negative sentiments that developed from the privatization program because it did not involve complete transfer of ownership to the private sector (particularly from overseas) as was the case with the privatization.

The foregoing discussion had emphasized four central drivers for PPP adoption as policy instrument in Uganda. That having been said, the next reveals some of the important areas in which PPP has been applied in Uganda – as it is not feasible within the scope of this study to identify all of the areas this discussion will shine light on some of the PPP projects that are in the operational phases.

3.4: PPP Operation in Uganda

The involvement of the private sector in the early stages of the economic liberalization agenda mainly involved outright privatization of formerly owed government business entities. In fact over three ago in 1986, Uganda had over 130 government parastatals. Mainly at the urging of the World Bank and the International Monetary Fund, by June 30, 2011, the government had conducted 95 sell off transactions and 39 liquidations (Uganda News Releases, 2015). These were mainly divested through sale of assets, share sale, joint ventures and pre-emptive rights. Others were disposed through other approaches such as initial public offerings, concessions, auctions, debt equity swap and repossessions (Bennell, 1997; Tangri, 1999).

As such, the so called economic liberalization, particularly specific private sector involvement approaches adopted in Uganda set the initial tone for the mutual interest and prolonged interaction between the government and the private sector in an institutionalized and/or contractually binding way. To enable the process, the Public Enterprises Reform and Divestiture Act (PERD Act) of 1993 created three classes of public enterprises and prescribed the modality for private sector participation. The first class included seven enterprises such the Civil Aviation Authority, Cotton Development Authority, National Social Security Fund among others. Added to this class was any regulatory agencies formed as a result of sectorial reforms. In these enterprises the state is required to retain one hundred percent shareholding.

The second class of enterprise is those in which the government was supposed to retain majority shareholding. Some examples in this class of 14 enterprises include Housing Finance Company of Uganda Limited, National Medical Stores, and National Water and Sewerage Corporation. Others are Uganda Electricity Board, Uganda Post limited among others. The third class of 88 enterprises was to be divested following the prescribed legal guidelines. Some of these companies included African Textiles Millls, African Ceramics Company, Dairy Corporation among others.

Following PERD act and the subsequent legal and institutional reforms, the environment of private and public participation, atleast in some form or manner was established. It is these policy and legal framework changes that created part of the foundation for Public–Private Partnerships in Uganda. To date, the World Bank reports that there are 24 active PPPs in Uganda, across the energy, transport and telecommunications sector (World Bank, 2017). The majority of these are in the electricity sub sector. In the following section a description of some of the key PPPs in the operation phase in Uganda is provided.

3.5: The Major PPP Projects in Uganda

Since this study focuses on the project based PPPs, a few illustrative examples are presented across different sectors.

3.5.1: The Electricity Distribution Concession (UMEME-UEDCL)

This PPP for the electricity distribution is the case study project for this investigation so a detailed description is provided in the methodology (chapter five).

3.5.2: Bujagali Hydro Electric Power Project

The Bujagali Hydro Electric Power Project is the biggest run-of-the-river power station in sub-Saharan Africa. The construction of the five turbine 250MW power plant commenced in May 2007 and started operations officially on 3 August 2012. The Special Purpose Vehicle Bujagali Energy Limited (BEL) is responsible for the operation of the project. Other project sponsors include Industrial Promotion Services (Kenya) Limited and SG Bujagali Holdings Ltd, a subsidiary of Global Power, LLC (USA). The total investment in the construction of dam was US$ 862million. As of October 2016, the utilization of the dam was approximately 70%. The power generated cost the end user US$0.11/kilowatt-hour making it the most expensive in the East African community. In September 2016 the government of Uganda initiated negotiations to refinance the dam to reduce the cost to an end user tariff to US$0.072/kilowatt-hours. In March 2018, the Board of Directors of International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) approved to refinance the project construction cost in excess of US$400 million owed by Bujagali Energy Limited, the project SPV, in order to reduce the production tariff (African Development Bank, 2018; MIGA, 2018). The IFC and MIGA approval includes US$423 million in guarantees, in support of the project. The refinancing arrangement will extend the tenure of the loans borrowed in 2007 from the various lenders. Included in this refinancing arrangement is the tax waiver from the government (MIGA, 2018).

3.5.3: Kira and Nalubaale Power Plants

Eskom Uganda Limited (EUL) was incorporated on the 22nd November 2002 as a special purpose vehicle and in 2003 awarded a 20 year concession to operate and maintain (O&M) the then new 200MW Kiira power station and the 50 years old 180MW Nalubaale power stations in Jinja. Eskom Uganda Limited is a subsidiary of Eskom Enterprises (Proprietary) Limited, South Africa, the investment arm of Eskom Holdings Ltd (Eskom, 2019). Eskom took over the operations and maintenance from one of the Uganda Electricity Boards successor companies, Uganda Electricity Generation Company Limited on the 1st of April 2003. Eskom currently generates an average of 138MW of electricity per day. The electricity is sold to Uganda Electricity Transmission Company limited on a single buyer arrangement. In the agreement Eskom was to inject $100 million into the assets over the 20 year concession period but as of 1st

March Eskom management report to the Uganda parliament the company had invested only $25 million in the plants five years to the end of the concession.

3.5.4: Rift Valley Railways

The 25 year Rift Valley Railway concession was agreed in 2006. The Rift Valley Railway consortium concession was for management of the railway operation in Kenya and Uganda. Particularly the provision of railway services from Kampala to Uganda. The concession registered some positives such as, in 2014, moved 1,334 million net tones kilometers of rail freight up from 1,185 million net tonne kilometers the previous year. It also improved its efficiency of 60% and 80% reduction in cargo time to Kampala. Despite this, the concession had to be restructured as the SPV failed to meet the financial obligations. In March 2011, media reports indicated that RVR intended to raise US$240 million to fund its expansion plans over the next five years. US$140 million would be raised by capital injection by the three corporate investors. The remaining US$100 would be borrowed from commercial banks. RVR already has a credit line estimated at about US$54 million. Owing to the financial difficulties of the SPV, in June 2017, the Uganda government issued a 90-day notice to RVR, notifying the concession of Uganda's intention to terminate. The concession was eventually terminated on the 4th September 2017. It has been argued that the structure of the concession, which bundled the network and rolling stock into a single concession, and the initial choice of concessionaire were the principal causes of the failure of this PPP.

3.5.5: Serena Hotel

The Tourism Promotion Services (TPS) was awarded a 30 year concession by the Government of Uganda to manage the Nile Hotel Complex, renamed Serena Hotel, in 2004. Under the lease concession, TPS was to invest US$18 million in the refurbishment and upgrading of the hotel. It is reported that the extensive refurbishments and upgrading cost US$30.5 million (Shs102.388 billion). The works began in February 2005 and completed July 31, 2006. At its 10th anniversary, expansion plans amounting to the investment US$8 million (Shs26.856bn) was announced by the TPS. The master plan was implemented in partnership with PROPACO, a subsidiary of the French Development Agency.

Besides the above examples and the sectors represented, Uganda has expanded the PPPs to several sectors of the economy, the wide majority of which are contracted at the national level. In addition to the partnerships in the transport, energy and tourism sectors, the country has PPP arrangements in the telecommunications and in construction and operation of office buildings and accommodation. Most of these are agreed to at the national level owing to the limited capacities and limitation of borrowing at the subnational levels of government. That said, some local governments are presently engaged in small projects with the private sector involvement, which arguably could qualify as some form of PPPs while others are at nascent levels of developing PPPs. Local governments such as Kampala City Council Authority, Entebbe Municipality and about six sub national governments have received assistance from the World Bank to start PPPs pending the local governments development of necessary capacity.

Overall, it is clear that Uganda is making strides in adopting PPPs as a modality for the provision of public services and infrastructure across many different sectors of the economy. To this end, the proliferation of PPPs will require frameworks robust enough to facilitate not only the development of PPPs but ensure their appropriate post contractual governance. Important issues, driven by change and emergent complexities, in the long course of implementation can potentially undermine the commitments made at the pre-contractual phase thus risking the achievement of intended purpose. Part of the requirement is an appropriate framework that supports the post-contractual management. In the subsection that follows, a discussion of the current PPP framework in Uganda is undertaken.

3.6: The Policy and Institutional Framework for PPP in Uganda

The current PPP framework can be unpacked into different constitute elements including the policy elements, the legal and institutional elements and the organizational elements. In this section these elements that are fundamental to the practice of PPP, in particular the development and the post contractual governance of PPP are identified and briefly expounded.

3.6.1: The Uganda Vision 2040

The Uganda Vision 2040 is the 30 year long country's strategic development master plan that was approved by cabinet in 2007 and operationalized in the financial year 2010/11. The vision identifies development themes and strategies for the ambition to transform the country into a competitive middle income class by 2040. The plan identifies what it refers to as the strategic bottle necks to the country's socio-economic development since independence. Key among these are; weak private sector, inadequate infrastructure, small market, lack of industrialization. Others are undeveloped services sector, under developed human resources.

To address the bottle-necks the plan advances for the strengthening of the fundamentals including: infrastructure (energy, transport, water, oil and gas, and ICT); Science, Technology, Engineering and Innovation (STEI); land use and management; urbanisation; human resource; and peace, security and defense. To strengthen these fundamentals, the plan identifies a number of infrastructure projects to be implemented in different sectors.

The plan notes the delivery of the projects requires the important strategies and policy reforms to take place. The involvement of the private sector is an instrumental strategy and policy position in the plan. The plan specifically identifies a) the need to facilitate the growth of the private sector and b) that government will mobilize the necessary resources using conventional and innovative non-conventional means, including through Public-Private Partnerships (PPPs), concessionary loans, and grants. It is this plan that sets the policy blue print for PPPs in the country. This long-term blueprint is operationalized through the National Development Plans.

3.6.2: The National Development Plans (NDPs)

In the context of this study, the NDPs are considered the second of the policy level framework for the implementation of the PPPs in the country. In fact, the National Development Plans (NDPS) operationalise the vision 2040. The 30 year vision is implemented through 6 cycles of 5-years NDPs. Now at the end of its second 5-year cycle, the National Development plan (NDPII) 2015/2016 -2019/2020 set out in specific terms the policy position on the use of PPPs. In particular, the plan identifies PPPs as one of the financing and debt sustainability strategies:

> *[…] given the scale of investments required under NDPII, there is need to have close cooperation between the public and private sectors in form of public-private sector partnerships (PPP). This form of partnership has already been demonstrated to work*

> *even for very large projects most recently applied to the Bujagali dam. Financing under the PPP framework would also relieve the pressure exerted on the meager public resources…..(National Planning Authority, 2015:136).*

The plan further notes the actions taken by the government, stating:

> *[…] government has already embarked on promoting and encouraging PPP in various forms for the smooth implementation of NDPII. Legislation towards formulating laws for PPPs is also in advanced stages…… In general, however, PPPs will be encouraged and promoted in the provision of infrastructure and energy, as well as huge undertakings which require substantial financial resource outlay*….(National Planning Authority, 2015:136)

The above excepts indicate the government policy position on the role, the rationale, the modality for PPPs. It also illustrates the government's commitment to mainstreaming the modality of PPP by developing an enabling policy and institutional framework that supports the model's adoption and management as a complementary strategy. The next subsections lay out the legal and institutional framework for PPPs as is currently setup in the country.

3.7: The Legal Framework

Despite the increasing policy and practical adoption of PPPs in Uganda, the current legal and institutional framework is still at the very nascent stages of development. Until 2010, there was no specific and formal legal and policy framework for PPPs in Uganda. Two institutional realities are apparent. First, the implementation of any private partnership involvement was supported by traditional procurement rules and regulations. Depending on the sector for which the private sector involvement was considered, the specific sector policies, laws and regulations would be applied to support any form of interaction. In essence, all the current PPPs at the post-contractual phase in all sectors were enabled by other legal and institutional frameworks other than the specific PPPs laws. As such there is an apparent confusion on whether or not some of the projects now referred to as PPPs indeed carry the features of PPPs as understood from the current conceptual definition of PPPs.

Secondly, although the specific law was passed in 2015 to help in the process of structuring PPPs and support their subsequent management, the law cannot apply retrospectively so as to influence the management of the existing PPPs. As a result, expectations and practices on important facets of post-contractual governance of PPPs in Uganda, as it regards to all of the existing PPPs, largely remain unclear and fragmented. Some of the laws that inform and have informed the legislative and institutional organization and practice, in no specific order, in Uganda are:

3.7.1: Public Enterprises Reform and Divestiture Act, 1993

The PERD Act, as noted earlier, set the initial conditions for the involvement of the private sector in public business in Uganda. The central objective of the Act is to give effect to the Government Policy for Public Enterprise Reform and Divestiture published in Gazette No. 48 of 1st November, 1991 and to set the Action Plan for Public Enterprise Reform and Divestiture. In regard to the current PPP practice and discussion in Uganda, this Act is more insightful for two reasons. First, it designated enterprises and sectors for government and private sector joint operations through government shareholding stake. Through such designation, the Act, in essence, set the premises for the core preconditions for PPP in regard to sharing risks, cost and benefits. Secondly, the Act set up the institutional framework for clear public private interactions by providing for the creation of successor companies for reformed public sectors and processes. By so doing in the later processes where a public contracting body needed to be explicitly identified for purposes of transaction with the private sector, this was possible. A prominent example of these are the successor public companies for the unbundled Uganda Electricity Board from which three business units where created, two of which later concessioned the asset to different consortia.

However, in regard to the long term monitoring of the interaction between the private sector and public sector, this Act was not robust enough as it was not able to preempt challenges after the reforms and divestiture. As a result critical reviews of the outcomes reforms and divestiture initiatives undertaken are common place, including concerns of poor public accountability, transparency emerging in the aftermath.

3.7.2: The Public Private Partnerships Framework Policy, 2010

On March 10 2010 government adopted the Public Private Partnership as tool for the provision of public services and infrastructure. Government rationalized the PPP policy application as a tool to enable the achievement of four objectives a) better utilization and allocation of public funds, b) more efficient development and delivery of public infrastructure, c) ensuring good quality public services, and d) boost economic growth and direct foreign direct investment.

For the implementation of the PPP policy, the framework emphasizes the assessment of the value for money as an important principle and for a transparent and rigorous procurement process. The policy framework also provides for the establishment of the PPP unit that would advise government on all issues of PPPs, support government departments and agencies in assessing the projects, choosing partners, negotiating agreements and monitoring them.

Besides, the policy framework provided for the role of the PPP unit to develop a strategy to educate stakeholders about PPP as well as to build the capacity of the government officials on PPPs.

3.7.3: The Public Private Partnerships Act, 2015

On 1st July 2015, the parliament of the Republic of Uganda passed the Public Private Partnerships Bill, and was law on the 12th August 2015 after the presidential assent. The Act filled the legal void in regard to the regulation of the development and implementation of PPPs in the Uganda. Before the law the actor based the PPP decisions on the 2010 policy framework. The objective of the PPP Act is to regulate the full cycle of the PPPs including the pre-contractual, post-contractual and terminal processes. The law defines the different modalities of the PPPs and the sector of engagement. The law names the core infrastructure areas of focus for PPP as transportation, water management, oil and gas pipelines, tourist infrastructure, sports and recreational facilities, mining, energy related facilities, social infrastructure etc

Further the law provides for the ongoing monitoring of the PPP and vests that responsibility on the contracting authority. In addition, an accounting and reporting framework for partnership is set with the responsibilities set for the accountant general to prescribe the accounting and financial reporting rules for the PPPs.

However, it is evident in the law the principle of mutuality is completely undermined by the set of relationship supposed between the partners at two important levels. First the act does not provide for mutual accountability between the partnerships instead entrenches a hierarchical relationship as opposed to horizontal relationship premised in the basic features of the partnership interaction. As such the full responsibilities are on the private sector to report to the public partner on terms and conditions set by the public sector. This completely distorts the balance of control in the partnership. Secondly, because the law does construe a principal-agent relationship between the private and public partners an opportunity is missed to create an independent monitoring structure and system that oversee the role and control of both partners to the achievement of public policy outcomes expected from the project and to keep both partners actively accountable and responsible.

3.7.4: The Public Procurement and Disposal of Public Assets Act, 2013

Before the PPP Act 2015, the PPDA Act of 2003 was the central regulatory framework for enabling the procurement of services, including the contracting with private partners on long term basis. Although the PPDA Act was enacted with the traditional procurement in mind, the absence of the legal framework on which to base the identification of partners for PPP ensured the Act was used for that purpose as well. In fact the scope of the PPDA act neither construes the models of investment and financing of delivery of service and infrastructure nor does it suppose the model such as end of end-user based payments for the private provider as enshrined in most PPP practices.

Moreover, the scope of control in the PPDA Act is limited to public entities and as such lacks the mandate to control the procurement practices of partnerships where the operational and implementation responsibilities are with the private sector partner. In this regard, while the PPDA Act was able to aid the public contracting authority to identifying and contracting with the private partner, the procurement Act lacks the mandate and is out of scope to facilitate the post contractual control of the PPP. The reality lends credence to the argument that while PPP will need to be procured initially, PPP per see ought not to be taken as a procurement issue but as service delivery instruments.

3.7.5: Various Infrastructure Sector Acts

In addition to the Acts that apply generally, depending on the sector in which the PPP is planned, sector specific legislation may apply. Particularly in regulated partnerships as is the case in this study the sector regulatory law will apply to regulate the activities of the partnership to ensure that it complies with the standards and expectations of the sector and that it meets the broader outcomes of the sector. In the specific context of this study, the Electricity Act 1999 constitutes an important framework and specific instrument at the post-contractual phase of the partnership..

The Electricity Act of 1999, the central object of this Act is to regulate the generation, transmission, distribution, sale, export, import and distribution of electrical energy in Uganda. In particular, the Act provides for the establishment of the Electricity Regulatory Authority; to provide for its functions, powers and administration; to provide for the generation, transmission, distribution, sale and use of electricity; to provide for the licensing and control of activities in the electricity sector; to provide for plant and equipment and for matters relating to safety; to liberalize and introduce competition in the electricity sector; to repeal the Electricity Act, Cap 135 and the Uganda Electricity Board (Special provisions) Act, Cap. 136; to provide for a successor Company to the Uganda Electricity Board, and for connected purposes.

3.8: Chapter Summary and Conclusion

In summary, although developing countries in general, and Uganda in particular, are employing PPPs as a modality for the delivery of infrastructure and public services in a wide range of sectors, very little scholarly empirical study has focused on PPPs in Uganda. The very few studies that appear in the literature are focused on documenting the experiences with global partnerships and/or attempting to assess the conditions and technical, political and financial feasibility for PPP success in the Ugandan context. Besides, a lot is still needed for PPPs in Uganda, as with many Developing countries, in regards to the institutional framework, including the policy, legal, organizational frameworks. This is largely due to PPPs recent introduction to the country and scant practical experiences that Uganda has with important implementation facets. As a result, very little is known about the governance of the Ugandan PPPs at the post-contractual phase both in theory and practice. As such, the five main post-contractual governance challenges and gaps identified by the appraisal of the international PPP literature are assumed to be pertinent in the Ugandan PPPs and partly shaped the analytical lenses for exploration of the case study and illustration of experienced challenges.

CHAPTER 4: THEORETICAL FRAMEWORK

4.1: Introduction

This chapter discusses the theoretical lens utilized to understand the post contractual PPP challenges and response strategies utilized by actors. To achieve the aim of this investigation, the study employs a theoretical framework to provide guidance and the lenses to examine the empirical case study. Although there are diverse definitions of theoretical frameworks in the literature, a theoretical framework is generally understood as a structure containing a set of concepts and theories utilized to support a piece of investigation (Sekaran & Bougie, 2016). In this sense, theoretical frameworks are often set out research studies for a number of reasons but most notably a) to provide a foundation for development of research questions, b) to help connect study findings with the extant knowledge, and c) help situate the study within the perspective of available research in the field.

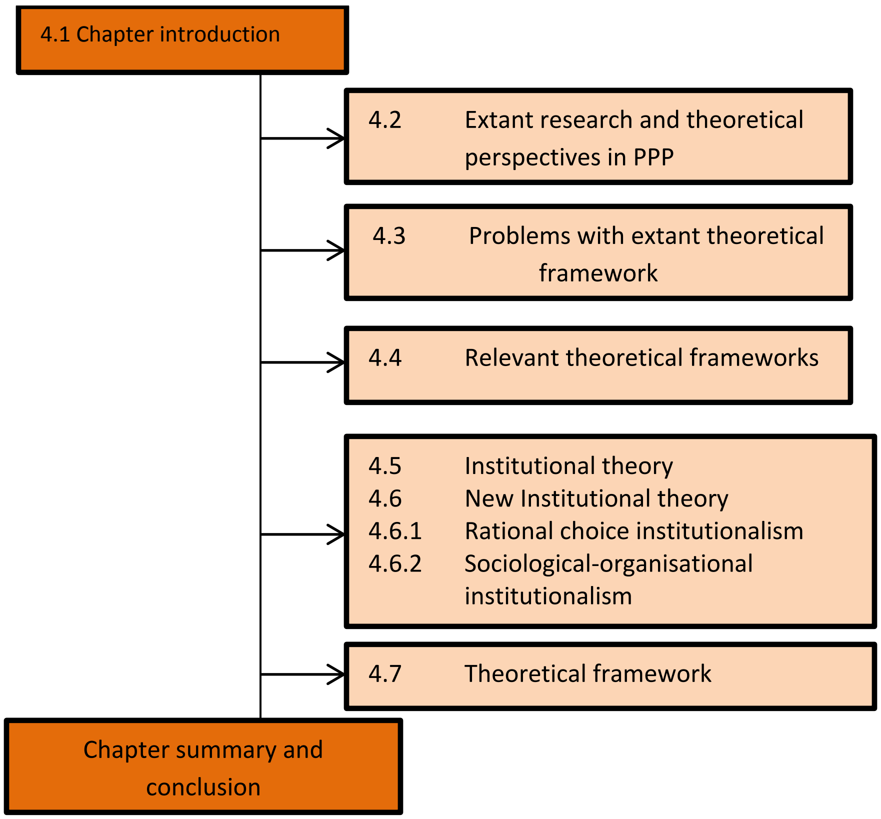
In qualitative research, the value theoretical framework can be construed differently as theories can instead be derived from the findings (Tavallaei & Talib, 2010; Anfara Jr & Mertz, 2014). In other words, in inductive and qualitative research strategies, theories are often developed from the study and as such emerge at a later stage following the analysis of data and the findings (Creswell & Creswell, 2017; Creswell & Poth, 2017). From the perspective of qualitative research therefore, existing theories are explored in an investigation to offer specific perspectives or lenses through which topics in a research study can be examined.

Accordingly, as opposed to providing a solid base for the investigation, as it is for quantitative studies, in qualitative research existing theories are connected with methods and analysis in interactive ways (Anfara Jr & Mertz, 2014). Informed by the pertinent considerations, this study is qualitative and as such applies the theoretical framework mostly organise the inductive exploration - detailed justifications for qualitative strategy is discussed in the next chapter on research design and methodology.

The choice of guiding theory discussed in this chapter is made, first, following re-examination of the main research aim – to explore the post contractual governance challenges and response strategies adopted by actors – and secondly, the need for a broad and robust framework capable of helping achieve in context of a complex and dynamic PPP phase and in empirical context considered. In identifying the guiding theory, the study reviews the approaches used mainly in the available body of PPP management and governance literature and examines whether or not there are any compatible theories and approaches.

The rest of this chapter is structured as follows. Section two presents the research and theoretical approaches in the extant literature employed to study Public-Private Partnerships. Section three identifies problems with the application of the extant theoretical approaches to PPP as they relate to this study. Section four evaluates complexity theory and institutional theory as the most relevant approaches for the study. Section five discusses the institutional theory as the suitable guide to the investigation. Section six discusses theoretical framework developed based on two strands of new institutionalism, and the last section summarizes and concludes the chapter. The figure 4.1 below further illustrates the chapter outline.

Figure 4. 1: Outline of the Theoretical Framework Chapter



4.2: Research and Theoretical Perspectives to the study of Public-Private Partnerships

There is wide agreement amongst practitioners and scholars on the complex nature of Public Private Partnerships. As a result of its complexity, PPPs have a high requirement for conflation of aspects of human life and interactions in all phases of their lifecycle. The PPP phenomenon has attracted discussion from a wide range of scholarly and theoretical perspectives that attempt to describe, examine, explain and predict it as a phenomenon. From a research perspective, the phenomena of PPP is addressed from the viewpoints that inspire different research efforts such as New Public Management (Grossman, 2012b; Suarez & Esparza, 2017), Post New public management (Smeets, 2017), Collaborative Public Management (Ansell & Gash, 2008), New Public Governance (Velotti et al., 2012), Public Administration (Brinkerhoff & Brinkerhoff, 2011; Rufin & Rivera-Santos, 2012), Strategic Management (Quelin et al., 2017), Economics and Management (Quelin et al., 2017), Interorganisational management (Simpson et al., 2011), and others. These broad research perspectives equally inspire specific functional disciplinary efforts. For instance, as a political and social product, PPP has been viewed from a number of angles and lenses in politics and law (Flinders, 2005; Schäferhoff et al., 2009; Bexell & Mörth, 2010). As a financial and organizational setup, PPP has attracted significant attention from economics, public finance and accounting and organizational management disciplines (Hayllar, 2010a; Hodge & Greve, 2010a; Wetterberg, 2011).

Similarly, there is a lot of diversity in the theoretical approaches applied as lenses to view, shape and contribute to the discussion on the various issues of PPP. From the governance perspective alone - as governance of PPPs is the central focus of this study - a number of different perspectives and theories have been applied. Extant literature reveals a range of theories applied by scholars in a range of related disciplines and with varying breadth ranging from grand theories, middle of the range and micro theories. Some of the theories used in the most recent works include New governance approach (Mauldin, 2012), Relational view (Hahn & Gold, 2014), governance perspective (Birner & Wittmer, 2006a; Morner & Misgeld, 2014), New Institutional Economics (Chen & Hubbard, 2012), Complexity theory (Bryson et al., 2017), Institutional theory (Simpson et al., 2011; Hanekom & Luiz, 2017). Others are Transactional cost economics (Rufin & Rivera-Santos, 2012), Stakeholder theory (Pittz & Adler, 2016), Resource dependency theory (Ashraf et al., 2017), Network theory (Bryson et al., 2006), Urban regime theory (Landow & Ebdon, 2012) and Social learning theory (Sun, 2017). Despite the array of theoretical lenses applied there are notable concerns worthy noting.

4.3: Extant Problems with Current Theoretical Framework Applications

Some of the concerns relate to context of theoretical development and application while others relate to the degree of robustness of the specific theories as exploration tools. From a broader view, first, the assumptions of most extant theoretical approaches are developed from the western experience, empirically tested and refined from similar and or identical experiences. In particular, available PPP scholarly work is dominated by output from the developed countries mostly the Anglophone jurisdictions such as the UK, Australia and other western European jurisdictions such as the Netherlands and Belgium – as such most theoretical assumptions are derived from a particular unique context (Hodge & Greve, 2007; 2009). This uneven dispersion of research effort suggests that the experiences of PPP in other areas are not well developed and understood academically. Considering that PPP is now an international phenomenon, the limited availability of studies focused on the developing country contexts could affect the efficacy of most of the theoretical assumptions (e.g. Broadbent & Laughlin, 2004).

Secondly, most of the theories are applied deductively. The deductive approach to the studies (Reside & Mendoza, 2010; Sharma, 2012; Hughes & Sharrock, 2016) still offers views generated from detached and inferred perspectives as opposed to those generated directly from local and peculiar settings. Although such a direction over the last two and half decades, since PFI in the UK, has immensely contributed to delineating issues on PPP as well as PPP potential and limitations, an extensive attention on the mechanics and details of the PPP arrangement has also limited the studies ability to asses some more fundamental issues beyond the technicalities as some of the practical issues pertinent to PPP receive little scholarly attention (Andon, 2012).

With this in mind, there may be some limitations to employment of some theories for addressing the main concern of the study and in the peculiar context of Uganda. Firstly, the over emphasis on the ‘mechanisms and details’ of PPP (Lambert & Lapsley, 2006) may not pay sufficient attention to the properties of post-contractual nature of interaction, the complexity and change that characterize the post contractual phase of the PPPs, which are central to this study. Indeed the central interest of this study in exploring responses to some of the unstructured challenges that emerge in the course of the implementation of the PPP with situated context. With this being an important consideration, the research makes the assumption that the complex nature of the post-contractual phase of the PPP could be better understood by conducting a study closer to the actual practice than from a distance away from the actual dynamics. This, in a way, responds to Andon (2012) suggestion for research to apply a “practice-oriented lens” as its framework in the context of PPPs.

Secondly, the reality that approaches applied are mainly derived from cases of developed countries, may have specific limitations in offering sufficient guidance to explore cases in unique and different social contexts such as Uganda. As suggested throughout the course of this review, the two contexts have important differences in regard to the experience, institutional development, economic and social conditions. The proliferation of the PPP/PFI in the UK or in Australia, for instance, are certainly influenced by their respective political, institutional and socio cultural contexts. In other words the circumstances that PPP interface with at different stages are always unique and shaped by the specific context of its implementation. In such context differences, some assumptions held by some theoretical frameworks may not be very helpful in providing lenses addressing the research topic.

In light of these problems with the extant theoretical approaches and their application, the research extensively sought for relevant theories achieve this study's aim.

4.4: Relevant Theoretical Frameworks for the Study

In light of the above, two theoretical approaches were considered relevant to provide lenses for the exploration of the research aim: complexity theory and institutional theory.

4.4.1: Complexity Theory and Institutional Theory

Complexity theory could be helpful for exploring some aspects identified in the PPP literature appraisal such as those relating to the interactions involving a number of actors. On the other hand, the unit of analysis of the complexity theory is the system, constituted of many interacting components behaving in accordance with the rules, laws and forces (Klijn, 2008). The theory assumes that the system has emergent properties that impact network relations but this cannot be intentionally controlled by the actor but only manage (Anderson, 1999; Sanderson, 2000; Wagenaar, 2007). For instance, Klijn (2007:272) observes that in a system, "[t]he possibilities for institutional design, consciously influencing and changing institutional characteristics of networks (…) is hardily possible". In addition, the system is assumed to be affected by the external forces in unexpected and continent ways yet the actors must respond to these external forces following systemic emergent properties (Klijn, 2008).

These important assumptions of the complexity theory limit the extent to which the constructed actor preferences and expectations can consciously influence the design of formal and informal systemic rules and responses to the unexpected and contingent impact of external forces in the course of the implementation of the partnership. To address this limitation, some researchers (e.g. Blom-Hansen, 1997; Koppenjan & Groenewegen, 2005) have used the rational choice strand of the new institutional theory to complement complexity theory by introducing an active role for the deliberate influence of actors on the network or system. But as it will be detailed later in this chapter, the rational choice strand assumptions are premised on the actors having fixed preferences, which in its self is not entirely consistent with the reality that actors modify and/or completely change decisions and preferences in the course of the implementation of the partnership - an insight that has been obtained from the literature appraisal.

As the second feasible theory identified, institutional theory offers tools for exploring the role of actors as creative learners and able to influence the context of their relations. In addition, the theory provides tools for considering the influence of external forces and how actors can reflexively adjust to them. Despite the available critique available on some strands of institutional theory such as the one noted earlier, on rational choice strand, as it will be further justified in the following sections that institutional theory offers viable strands and tools to explore the central concern of this study.

4.5: Institutional Theory

An institutional analysis of the Public-Private Partnerships places emphasis on the complex nature of interaction arising from a number of internal and external dynamics involved in the relations of multiple actors (Healey, 2007). In this perspective, the principal private and public sectors are not opposed forces rather are institutionally intertwined (Eisner, 2011:14). The operations of the private sector are influenced by a large number of institutions, that are both formal and informal, and not always governed by the private motives of profit making and/or by commercial laws of demand and supply (Chang, 2002). Similarly, the operations of the public sector are informed by sets of institutions, where rules, roles and sets of procedures determine the internal workings of the public sector organisations, which influence the decisions on public policy and shape the interactions between the actors in the private and public sectors (Eisner, 2011). As such, in addition to facilitating understanding of the nature of influence that institutions have on the private and public sectors operating separately, institutional theory offers alternative strands and tools for exploring the gap in the empirical analysis of Public-Private Partnerships that includes the scant and disproportionate address of the post-contractual phase characterized by complexity, dynamism and interdependency of actors.

Institutionalism in itself is an interdisciplinary approach and many worthy disagreements can indeed be found in the extant literature (Hall & Taylor, 1996; DiMaggio, 1998; Nielsen, 2001; Healey, 2007). For instance, the central criticism for new institutionalism is often that it provides primacy to either institutions in a way of norm governing behavior (the sociological – organizational perspective) or on the other hand to the individual actors strategic action (the rational choice perspective) (Lowndes, 2001). But what appears to be a key consensus in the institutionalist literature is the understanding of institutions operating as constraints and enablers of behavior of different actors but which in themselves can emerge as an outgrowth of human actions.

Although such consensus exists, the different strands – old and new institutionalism - place disproportionate emphasis on the either side of that dialect (DiMaggio & Powell, 1991; Lowndes, 2001; Nielsen, 2001; 2007).

4.6: New Institutional Theory

New institutional theory (sometimes called neo-institutional theory) postulates that an organization's environment exerts certain pressures that will compel the organization to adapt in order to remain competitive and survive (DiMaggio & Powell, 1991; Nielsen, 2001; Nell et al., 2015). The new institutionalist approach applied in this research includes the rational choice institutionalism and the sociological-organizational institutionalism. Both strands recognize the role that institutions, both the formal and informal, play as constraints and enablers of actors actions in the relationship.

The strand of rational choice perceives that institutions are stable in time and space and they focus on the role of rational maximizing actors who determine decisions within the boundaries of these institutions (North, 1993; DiMaggio, 1998; Nielsen, 2007). Conversely, the sociological strand perceives institutions as less fixed in regard to time and space, although relatively stable, and place emphasis on the norm-governed behavior of actors, which is influenced by their cultural-cognitive institutional frames (DiMaggio, 1998; Nielsen, 2001). Although both strands of the neo institutional theory are criticized for inability to explain the shaping power of actor interrelationship on their preferences and how the interrelationship shape the rules that guide their interactions, in the partnership context of this study, it is construed that such interrelations and shaping of rules and preferences indeed exist but the circumstance and the modality, instead, are not clear. The two strands of the theory are explicated in more detail next.

4.6.1: Rational Choice Institutionalism

This strand of institutionalism posits that the formal and informal rules (institutions) influence the actors in a predictable way, founded on actors expected behavior and according to their fixed preferences, expectations and interests. The work of Douglas North (North, 1990; 1993) and Oliver Williamson (Williamson, 1998a; 1998b) most significantly inform this strand. North (1993) views rules (formal and informal) as incentive structures that implore individual's utility maximizing behavior. While Williamson (1998a) places emphasis on the study of institutional environment in which institutions are seen as efficient organizing frames represented as markets, hybrids or hierarchical forms (Williamson, 1998a; Lowndes, 2001). This strand of institutionalism sees actors as having bounded rationality (characterized by limited information) and with given preferences, as well as in pursuit of maximizing benefit to self and seeking to reduce uncertainties and transactional costs (Hall & Taylor, 1996; Williamson, 1998b).

In this regard, partnerships and actor relationships thus represent the sum of predictable individual actions and these actions are perceived to be mildly impacted by the social context. In essence, the strand adopts a methodological individualist perspective where the individual's strategic choices are the main unit of analysis (Hodgson, 1998; Scott, 2008). In this sense, actors are presumed to have fixed preferences and determine their decisions by analyzing costs and benefits of the alternative options either to create institutions considered efficient or to make decisions when bounded by them. Based on this perspective, in analyzing the strategies that actors choose to respond to challenges in the context of post contractual PPP management, is presumed the actors will place their interests first by applying the logics of efficiency and consequentiality and compare expected costs and benefits of choices in order to determine response strategies that will provide optimal consequences given their interests in the partnership (Wendt, 2001; Alexander, 2005). Some scholars (e.g. Cole et al., 1991; Wendt, 2001) however warn that these are hardly testable hypothesis and studies adopting the rational choice lens ought to consider the assumptions only as starting point to their analysis.

In the context of this study, the foregoing caution is imperative as the central assumptions of the rational choice strand somewhat contradict post-contractual reality of PPPs as suggested in the literature. Particularly because the literature suggestions that PPPs at the post-contractual phase are characterized by changes, including changes on the various actor compositions, interests and priorities and strategies, which can impact the response strategy choices when challenges occur. Moreover, if the rationale choice assumptions were to be taken into consideration from the inception of this study, the responses to challenges at the post contractual phase of the PPP would be predictable; leaving little on the reality and dynamics of the post contractual phase of the PPP to be explored – in which case the focus would probably be on the outcomes of those responses and not their nature.

The rational choice strand also offers useful insights into the important concepts of formal and informal rules as institutions, which are critical for the aim of this research and more broadly in the context of contractual nature of the PPP modality, the concession, considered in this study. According to North (1989:1321) institutions denote “rules, enforcement characteristics of rules, and norms of behaviour that structure repeated human interaction". Formal rules can include the constitutions, statutes and common law, and contracts (North, 1989). Others formal rules include, administrative hierarchies, legislative and decision making procedures, budget mechanisms and bureau types (Williamson, 1998a).

On the other hand, informal rules are constituted by institutions of governance and presenting as norms, codes of conduct, taboos, standards of behavior, experience and ideologies (such as religious, social and political etc) (North, 1989:1322). Indeed the "undersocialised' explanations (Granovetter, 1985:483) held by this strand can apply to governance of PPPs. In particular, highly rule based and rules inspired behavior of actors is a reality of Public-Private Partnerships as they are, in the first place, products of such formal institutions. However, in this study a sole focus on exploring the post contractual challenges and responses would require to go beyond the consideration of formal and informal rules as anchors to responses to also consider a 'more socialized' perspective (Granovetter, 1985) in a complementary way. This would provide a wider scope that captures the complex, dynamic and changing realities of the post-contractual phase of Public Private Partnership.

4.6.2: Sociological-Organizational Institutionalism

The sociological-organisational strand of new institutional theory posits a more autonomous role for both formal and informal sets of rules (institutions) in which the actor is not the unit of analysis instead it the institutions that govern the behavior of the actors in the social relationship (Sanderson, 2000; Lowndes, 2001). As opposed to the rational choice strand, the sociological-organisational strand adopts an "oversocialized" approach in which formal and informal social structures constrain the nature of actor relations (Granovetter, 1985; 1992). In other words institutions are placed ahead of the interests, preferences and priorities of actors in determining causes of action. The proponents of this strand argue that rules (formal and informal) embedded in the social structures operate as symbols and myth that constrain behavior in the relational networks. In this regard, the myths are either applied because of internalized or embedded prescriptions that predefine them as the appropriate means to pursue a purpose or as a response measure, or because such myth have been institutionalized and are taken for granted as legitimate cause of action, but not necessarily because they serve the rational choice of the actor as it is with the rational choice strand noted earlier.

This strand of institutionalism is helpful for exploring the post contractual phase of the PPPs where the literature suggests constraining role of formal and informal institutions as well as environmental constraints in shaping the actions of actors and the nature of their interactions. But, as with the rational choice, this strand offers limited analytical tools for exploring the dynamic influence of the actors changing preferences and their interactions for the rational development of rules and constraints that affect them in the course of post-contractual management of Public Private Partnership. As Hirsch and Lounsbury (1997) posit, new institutionalists from the sociological and organizational strand have not adequately connected change and development of institutions to the activities of individuals and organisations. In fact, the proponents of this strand acknowledge this challenge as (DiMaggio & Powell, 1991:15) observe, “neoinstitutionalists tend to reject socialization theory”.

From a sociological lens, distinctions have been made of rational choice approach to institutionalism from the historical institutionalism and from organizational institutionalism (Campbell & Pedersen, 2001). In historical institutionalism, advanced by political sociologists and political scientists, institutions (formal and informal) offer ‘scripts’ and ‘road maps’ for interpretation and for political and social action of actors. These scripts and road maps are institutionally agreed to and constrained by frames of various ideas, symbols, and routines that inform the actor’s courses of action (Hall & Taylor, 1996; Campbell & Pedersen, 2001). In addition, according to historical institutionalists, institutions are the consequences of interactions among political actors that have long lasting impact over time (Thelen, 1999:388)

Organisational institutionalism, on the other hand, advanced by organizational sociologists and more frequently associated with (DiMaggio & Powell, 1991), placed emphasis on the value of routines and habits in actors underlying cognitive framework, which are ‘taken for granted’ scripts and sometimes almost invisible to the actors themselves. In other words the actions of actors are so obvious and natural that they may not be processed by the actors in rational way at the point of undertaking them. But some organizational intuitionalists (Campbell & Pedersen, 2001) though posit that it is possible for actors to deliberately manipulate these culturally-cognitive given concepts to address problems.

The other type is sociological insitutionalist approach discussed by political scientists (Hall & Taylor, 1996) and is similar to new institutionalist sociology or social constructivist neo-institutionalism (DiMaggio, 1998; Nielsen, 2001; 2007). This strand principally argues that human action is aided by culturally constructed conceptions or cognitive scripts (Hall & Taylor, 1996). The approach further posits that in addition to affecting the strategic calculation of social actors, institutions actually facilitate in constituting actors identities and preferences. Although this strand of institutionalism argues that the practices and/or actions of actors emerge from interactive processes, where actors share with each other interpretations to problems and ways of solving them, these proponents still believe that individuals remain rational and goal oriented. They advance that the rationality and goal orientation demonstrated by actors is socially constituted and bounded up with interpretation, in which behavior is influenced by the individual's word view (Hall & Taylor, 1996). Moreover, sociological institutionalist approach tend to focus on the macro level processes, that are seen to leaning more towards methodical collectivism frequently characterized by 'action without agents' as well as place deeper emphasis on 'taken for granted' scripts over the bounded rationality of actors (Hall & Taylor, 1996).

From the foregoing discussion three important issues necessary for exploring the challenges and responses from the sociological-organisational lens can be discerned and deserve specific emphasis, a) the representation of actors as rules followers, b) the enabling and constraining role of rules, and c) actors as conscious agents and active learners.

a. Actors as Rule-Followers

Overall, from the sociological-organisational institutionalism strand, institutions posited as symbolic templates, taken for granted sets of beliefs and culture which are incorporated through cognition by actors from their field or sector and a basis upon which actors respond to stimulus. In other words, formal and informal rules work as guiding framework for actors to respond to challenges that arise in the course of operations or interactions. Put precisely, rules direct or sharp actor responses. In fact, to DiMaggio and Powell (1991) it is the standardization of cultural norms, typifications and cognitive models that lead new intstitutionalists to adopt a level of industries, sectors, professions, nation states an societies as the environment that impact actors. In this regard, the embedded rules and practices, identities and roles, normative and causal beliefs, and resources derived from their macro-field, sector or society then become the unit of analysis (Olsen, 2007). While this approach acknowledges that rules are created by human action, it does not focus on the role actor's consciously play in creating institutions through their interaction. Instead, as already noted, the central assumption is that institutions represent an enduring collection of rules and practices embedded in the "structures of meaning and resources" which set an order and level of predictability, have durable and independent effects individual actors and environment even in the face of changes of individuals and external circumstances pertaining (Olsen, 2007:2). In other words, actors determine responses by following the set rules.

According to March and Olsen (2006) these can also be rules of appropriateness or follow the 'logic of appropriateness'. In this regard, the proponents posit that actors associate certain actions with situations by using rules of appropriateness and act in line with embedded practices of collectivity and mutual understanding of what is true, reasonable, natural, right and good for a specific situation (Olsen, 2007). In so doing, actors try to meet the obligations, respond to situations or execute their roles in a specific setting by following rules considered adequate for the task or challenge at hand (March & Olsen, 2006; Olsen, 2007). The rules of appropriateness are posited as relatively stable and difficult to change. In fact it is advanced that in the scenario of ambiguity and conflict among alternative concepts or prescription on ways of thinking and doing, the probable challenge is how the actors are translating the rules into behavior but not the rules themselves (Olsen, 2007).

b. The role of rules as constraints: adjustment and reproduction

As March and Olsen (2006) note, the consideration for adjustments in the embedded rules, practices and discourses (adjustment to the rules) happen when the current order, the rules of appropriateness and collective understanding can no longer make sense and are all challenged by new circumstances and experiences, that make is difficult for them to use the current 'ways of thinking and doing things' to explain. March and Olsen (2006) specifically advance that once the embedded practices and discourses are no longer capable, as a result of changed circumstances and experiences, of providing adequate answers to what is appropriate behavior then the search for new approaches that provide answers begins. They exemplify that such learning frames my result or may be driven by "disasters, crises and system breakdowns", in which the current or established order are questioned and its legitimacy to providing adequate responses challenged (March & Olsen, 2006:700).

In fact DiMaggio and Powell (1991) arguments on institutional isomorphism are identical perspectives to rules of appropriateness (March & Olsen, 2006; Olsen, 2007) in regard to the prescriptiveness and rigidity of the institutions. To DiMaggio and Powell (1991) rules are crafted through the process of isomorphism or homogenisation, where by an organization either mimics another organization that is undergoing identical set of environmental pressures in a context of uncertainty and ambiguity, or the organization is constrained by formal and informal coercive pressures exerted by other organizations or a set of cultural expectations to adopt a certain set of standard responses.

In mimetic isomorphism, the copied institutional environment provides legitimacy on what is considered appropriate for the survival of the organisaiton (DiMaggio & Powell, 1991). In essence, an organization follows the myth of the environment and borrows the source of the practices from another organization as a basis to craft the conditions and the approaches to their own work. The authors posit that this reality pertains when there is ambiguity of goals, symbolic uncertainty created by the environment, and alternatively when the organization is not clear of its own solutions. In fact Lowndes (2001) notes that the institutional myths can be very strong that they lead to reproduction of institutions among organisations where similar structures and homogenizations act as change drivers. But as DiMaggio and Powell (1991) observe, mimetic isomorphism can occur even with the lack of evidence of its ability to increase efficiency because organizations mainly model themselves after the ones that they perceive to be more legitimate, reputable and successful. For instance, organisations may copy "administrative categories that define eligibility for public and private grants and contracts" in order to facilitate transactions between organizations with 'similar-minded' ways of acting (DiMaggio & Powell, 1991:73).

In regard to the coercive isomorphism, DiMaggio and Powell (1991) posit that pressures from the government mandate, political influence, common law and regulatory requirements, as well as the determined standard operating procedures and legitimized rules, lead to homogenized structures, methods and procedures around conformity to wider institutions. The authors note, for instance, that the presence of a common legal environment impacts a number of aspects of an organisations behavior and structure in identical ways. They mention the system of contract law, such as the one in Uganda, which dictates certain organizational control to comply with the legal and technical commitments and requirements of the state. Examples of these legal and technical requirements include budget cycle, fiscal and annual reports, audit requirements, annual reporting, and financial requirements that ensure eligibility for receiving public government funds. In other words the responses of the actors to challenges will be informed by any such elements. In essence, both mimetic and coercive isomorphisms assume compliance based response mechanisms shaped specifically by taken for granted beliefs on the appropriate mode to organize and the ends to persue, as opposed to the actual efficacy of those dominant structures and practices (Lowndes, 2001).

c. Actors and Conscious Agents and Active Learners

An association between the assumptions of the sociological – organizational institutionalism with elements of behavioural theory, in particular Bourdieu's concept of 'habitus', – in which actors are construed not necessarily conscious with respect to the influences on the behavior (Hirsch & Lounsbury, 1997; Burke et al., 2009). In other words, the rules as set do not always foreshadow their actions, instead, as Bourdieu (1990) posits, actors demonstrate conscious agency in transforming the application of the set institutions, or 'habitus'. Bourdieu (1990:53) specifically argues that "It is, of course, never ruled out that the responses of the habitus may be accompanied by a strategic calculation tending to perform in a conscious mode the operation that the habitus performs quite differently, namely an estimation of chances presupposing transformation of the past effect into an expected objective".

The theoretical approach adopted for this study borrows from perspectives the rational choice and sociological–organizational strands in which 'habitus' (the set of institutions and established practices) maybe considered influential to actors but such institutions may also be deliberately changed by the actors in practice through socially constructed processes. In that regard, the responses will be explored in five analytical frames including coercive responses, mimetic responses, normative responses and cultural-cognitive responses, and socially constructed responses.

4.7: The Theoretical Framework

In exploring the empirical case, the framework is developed from the assumptions from the rational choice and sociological-organizational strands of institutional theory. Following the two strands, the study considers actors, in the specific context of PPPs as;

a) as rule followers in crafting responses to challenges that are faced during at the post-contractual phase of PPP lifecycle.

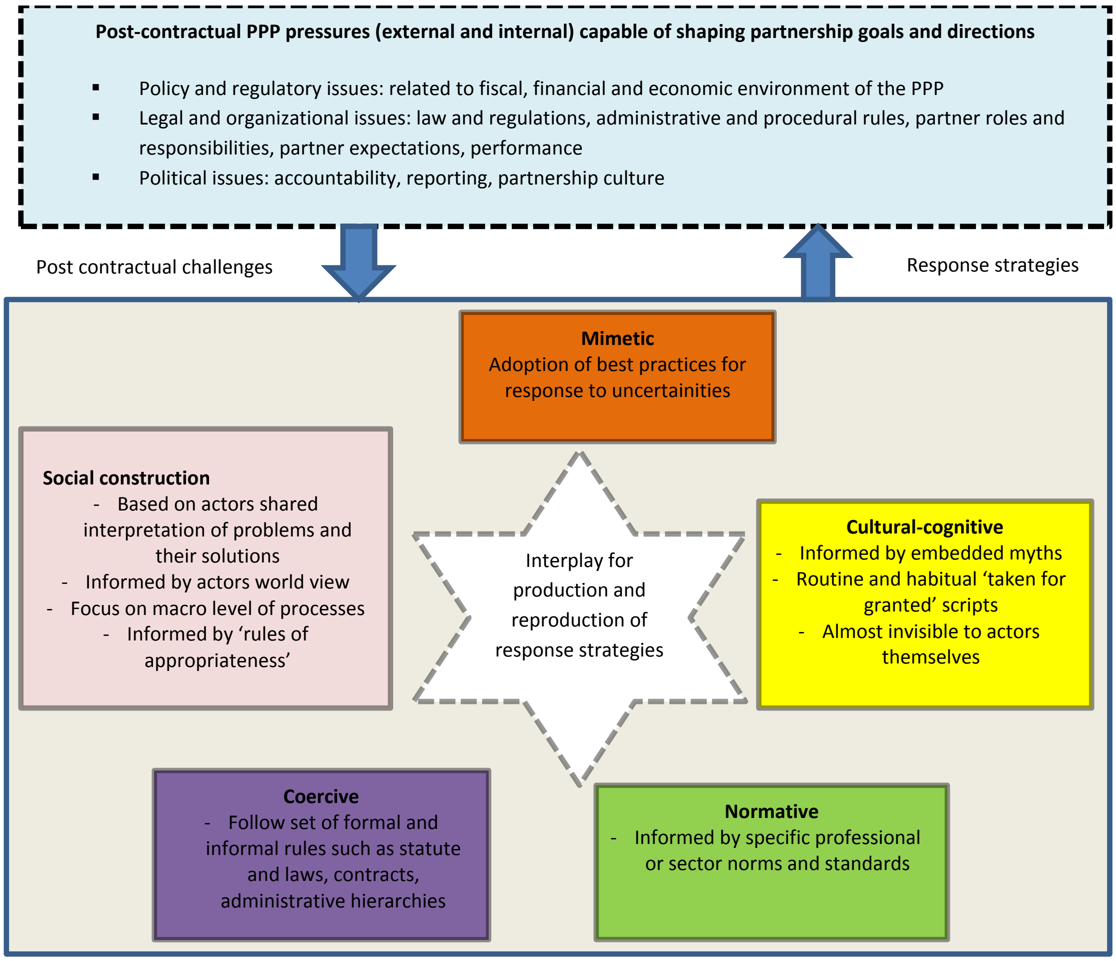
b) creative learners, capable of reflecting upon and changing the embedded rules and practices as guided by the rules of appropriateness, and

c) institutions as constraints that can be adjusted and reproduced as appropriate.

The figure 4.2 below illustrates the theoretical framework for understanding the actor's responses to post contractual challenges in PPPs.

As Hodgson (1998:173) argued, when "a conception of the individual agent is involved, it is one which emphasizes both the prevalence of habit and the possibility of capricious novelty". It is assumed in this investigation that institutional myths can be incorporated in the determination of response strategies by both the private-public actors through sets of embedded beliefs and culture leading to the replication of institutional practices and structures. For instance the embeddedness of principal-agent relationship in the private-public relationship in which the public sector sets the rules and as opposed to mutuality.

Figure 4. 2: Illustration of the Theoretical Framework Based on Rational Choice and Sociological-Institutionalism Strands



Source: Authors work

The study also concurs that actors may follow rules of appropriateness by enacting the internalised response strategies that they consider most appropriate for the circumstances, which in this study are considered socially constructed responses. However different from DiMaggio (1998) and March and Olsen (2006), this study does not assume that actors take the rules of appropriateness as facts and apply them without reflection, instead it does assume that the measures of appropriateness could be challenged by the rational choice of private and public actors in the PPP. This assumption is premised on an establishment in the literature on the differences in actor interests such that what might seem appropriate response to one actor might be seen as inappropriate by the other. In this regard, this study further assumes at some responses will require renegotiation to determine the ‘appropriate’ course of action to a challenge that is agreeable to both actors and that partners will apply coercive institutions to enforce what is construed as ‘appropriate’.

Moreover, despite the sociological-organizational institutionalisms acceptance that institutions are the products of human action, the strands disagreement with intentionality suggests the “unreflective, routine, taken-for-granted nature of most human behaviour and views interests and actors as themselves constituted by institutions” (DiMaggio & Powell, 1991:12). This study on the contrary does not assume that actor preferences to only be shaped by the taken for granted cultural-cognition or prescriptive rules of what is appropriate behavior. Instead this investigation assumes that, private and public actors in a PPP have the capacity to learn, adjust, improvise, as well as choose to follow or not the existing templates of practices and routines in their responses to the challenges faced.

Furthermore, this research incorporates the sociological-organizational focus by capturing the influence of the sector, field or society’s macro level on the institutional frames internalized by the actors and which drives their partnership interactions (DiMaggio & Powell, 1991; March & Olsen, 2006). In fact in the context of this study as a public service provision modality, it is assumed that a complete analysis of the response mechanisms to the challenges faced by the PPP at the post contractual phase would be helped by consideration of macro level influences.

In reality, PPP have diverse and inevitable institutional connections with the macro level such that analysis restricted to micro level would be a very limited exploration. But it is also this study's consideration that the extent of macro level consideration be limited to the experiences elicited from the micro level actors. It is from the micro level actor's interactions that the influence of macro level will be determined. This is specifically important in order to account for the suggestion from the PPP literature that complexity is one of the defining traits of the post-contractual phase by way of multiplicity of actors and stakeholders, changing interests and technicalities.

4.8: Chapter Summary and Conclusion

This study is interested in the challenges and response strategies adopted by actors at the post contractual phase of PPP. For this, the study adopts insights from the neo institutional theory that posits that actor practices, opinions and expectations are embedded on sets of formal and informal rules. This study also adopts the social constructivist concept of institutions in which actors in the course of their interactions can contextually produce and reproduce these practices, expectations and opinions that shape their actions. Latter strand also incorporates a possibility that external forces can influence the challenges and the nature of responses in contingent ways. In this regard, both the rational choice and sociological-organisational strands of new institutionalism provide an exploratory lens for this study.

The choice of the new institutionalism as the central theory for this study resulted from the appraisal of broad theoretical approaches. The different theories were considered based on their tools for exploring the insights from the appraisal of the literature on governance of public private partnership at the post-contractual phase of the PPP lifecycle, in particular on the insights on defining features of the post contractual phase as well as the extant challenges associated. The rational choice and sociological – organizational strands were considered important for this study as the two approaches are seen to complement the other areas of weakness. In particular this study considers that a sole articulation of actor responses based on the outcome expectations and the assumption fixed preferences of actors would not have been sufficient neither would the disregard of the same in the context of public-private partnership arrangement be realistic. As such the integration of assumptions from both strands is considered to provide a robust lens to understand the strategies that actors utilise.

From the theoretical expositions, a framework that operationalizes the ideas discussed and guides the research design of chapter 5 and the subsequent analytical processes in the chapters 6, 7 and 8 is designed. The framework focuses on the considerations and processes that shape the production and reproduction of strategies by actors by taking into consideration the constraints placed by the institutions as well as the consciousness of actors as active learners in the PPP.

CHAPTER 5: METHODOLOGY

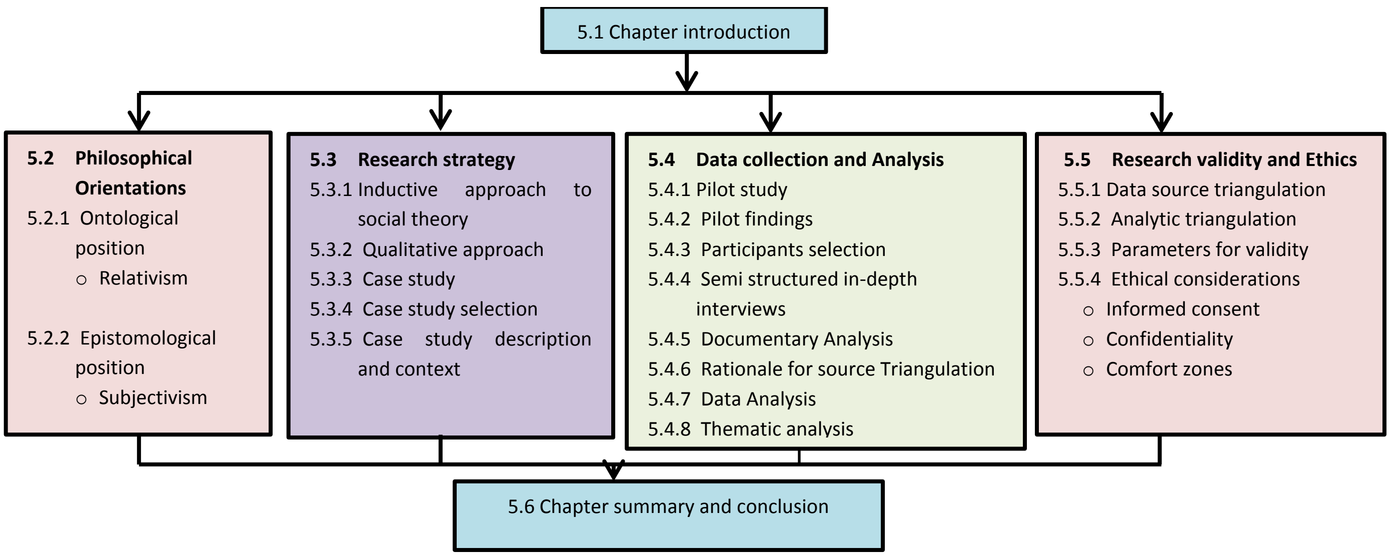
5.1: Introduction

This chapter details the methodology of this study. It includes the presentation and rationalization of the choices made in the design of the investigation and the operationalization processes executed in collecting and analyzing the data. The chapter also introduces the applicable literature on qualitative and case study research which are the cornerstones in the implementation of this study. However, only a brief and specific discussion on the competing philosophical paradigms informing this study is undertaken as it would be difficult to do justice to such a diverse discourse within the scope considerations of this study (Benton & Craib, 2001; Guba & Lincoln, 2005; Denzin & Lincoln, 2011). Nonetheless, throughout this chapter the adopted philosophical orientations are consistently reflected upon and explicitly connected to choices made.

Where deemed necessary, the chapter incorporates reflections of the researcher’s own changing personal and professional circumstances. In that regard, although contrary to the general approach in this thesis, I do not completely avoid writing in first person where I determined that by so doing, a more open account of the procedural decisions made in the course of this research is provided.

The rest of this chapter is organized in five sections as follows. The first section succinctly explains the philosophical orientations and includes the epistemological foundations of the study. The second section explains the research strategy. In particular, key elements in the approach to social theory. The third section details the study’s data collection and analysis approaches. Section four the addresses the research validity and ethical safeguards. The final section provides the chapter summary and conclusion. The overall structure of the methodology chapter is depicted in the figure 5.1 below.

Figure 5. 1 Outline of the Research Design and Methodology Chapter



5.2: Philosophical Orientations

5.2.1: Ontological Position

The ontology of research relates to the nature of reality or to the 'nature of the known' (Guba & Lincoln, 2005; Sarantakos, 2012). There are divergent stances but most importantly, the adopted philosophical stance influences how the researcher approaches the investigation of a specific topic or issue. Positivism and relativism are the two alternative paradigms on either sides of what is generally seen as continuum of ontological positions that the researcher can orient to (Burell & Morgan, 1979; Collis & Hussey, 2013). These positions can generally be seen as set of alternative and contradictory assumptions that denote the researcher's reality and truth beliefs. These truth beliefs impact the researchers approach to the study process including the choice of tools, methods of data gathering, approaches to data analysis as well as ethical beliefs (Guba & Lincoln, 2005; Collis & Hussey, 2013). In other words, any paradigm followed has specific methodological implications on the conduct of research to meet the set objectives. In the realist or positivist paradigm, truth or reality is objective, singular and distinctively identifiable. That is, there exist 'things out there' that the researcher in the conduct of research can discover, identify and illuminate – things exist but they have to be looked for and found. On the other side of the continuum is the relativist or subjectivist belief system where reality and truth is believed to be subjective and multidimensional (Burell & Morgan, 1979; Benton & Craib, 2001; Guba & Lincoln, 2005).

Accordingly, in this research the author takes a relativist stance. The author believes that reality and truth is neither objective nor external rather it is socially constructed and subject to the varying opinions, perceptions, experiences of the actors and difference in context. Besides the personal beliefs, the choice of this stance is premised on a) the subject of this study, b) the objectives set to be achieved and c) the context in which the study is situated. This study's aim presupposes a relativist orientation. In relativist oriented research the central aim is to achieve a deeper understanding of the rather ambiguous and multidimensional phenomena by utilizing one or more exploration techniques (Silverman, 2013).

Equally important to note is that the author's relativist approach in this study permits significant focus on the context in which public-private partnerships develop in Uganda. In other words, as everything happens in context it is important to mainstream the contextual characteristics (such the political, economic, social-cultural and institutional) that define the uniqueness of the contextual environment in each country. This will enable an in-depth and context relative analysis of how various stakeholders experience and perceive Public-Private Partnership challenges and the nature of responses preferred.

That said, a relativist research paradigm has its limitations. The major limitation is the inability to generalize findings. As the researcher studies the phenomena from subjective experiences and perceptions as well as from distinctive contexts (in this case the phenomena of public-private partnership in the unique context of the Uganda or even in the unique context of the electricity industry in Uganda) its impractical to generalise the findings except if commonalities between two or more contexts are so widespread to allow for valid comparisons and generalization in contexts of similar conditions. In sections 4.3 and 4.4 that detail the research and the data collection and analysis methods, the limitations of the research are further explicated. However, having considered the study's ontological position, the following section provides discussion of the study's epistemological orientation.

5.2.2: Epistemological position

In general, epistemology is concerned with the nature of knowledge, knowledge acquisition and the relationship between the researcher and the researched or, as other authors prefer, the relationship between the knower and the known (Benton & Craib, 2001; Collis & Hussey, 2013; Hughes & Sharrock, 2016). As stated in the preceding section, the researcher's perception of reality and truth influences the role and position of the researcher in the conduct of research. That is, the ontological orientation has a bearing on the research epistemological orientation. In that regard, each of the two ontological paradigms denotes a corresponding epistemological stance.

On one hand the realist/positivist paradigm presumes the detachment and independence of the researcher in the research process. The implication is that under positivism, the researcher is independent from the study they are undertaking. To this paradigm, the world is objective so there is no need for the interaction between the researcher and a distinctively definable and discoverable reality (Tsoukas & Hatch, 2001; Collis & Hussey, 2013). On the other hand, the relativist/interpretivist paradigm espouses the interdependence of the researcher and the phenomena under investigation. To this paradigm, the interaction and direct participation of the researcher with the objects of the study is an acceptable and necessary part of the conducting the investigation (Tsoukas & Hatch, 2001; Guba & Lincoln, 2005; Neuman, 2007). In this sense, an intimate and deeper understanding of reality is constructed when the researcher interacts with the objects of the research within a particular context. In other words knowledge is relative.

Thus, in this thesis the researcher adopts the epistomological stance that a researcher is part and parcel of the investigation being conducted. In this study the interaction of the researcher with the objects of the research is essential for the purposes of knowing. In fact the study instrumentalises the researcher (Barrett, 2007) in important phases of the research process from conception to the determination of the essential parts of the account to be reported thus making the interaction between the researcher and the researched necessary.

With the ontological and epistemological choices made for this research, two important aspects of this study were made possible. First, it was possible to delineate and consider post-contractual Public-Private Partnership governance issues within the unique context of Uganda. Specifically it was possible to focus on the field of Public Private Partnership in Uganda and what the stakeholder perceptions of governance issues at the post contractual phase are.

Secondly, the subjectivist orientation enabled probing of experiences and perceptions to enrich the understanding. Indeed, this is only possible through the researchers' personal interaction with the researched in form of meetings with the different actors from the different stakeholder groups from policy, regulative, operating, consulting organisations. The overriding implication of this subjectivist orientation is that the researcher's interaction with the researched enables to capture the experiences and perceptions. Moreover, an opportunity to capture an insider perspective denotes leverage that participants could share the lived experiences and the drivers of such experiences from an intimate knowledge point of view. But there is flip side to the subjective epistemology that primarily draws on the risk of self-reporting bias, biased opinions and judgments founded on limited experiential knowledge and personal interest. These concerns of validity and reliability are addressed later in this chapter.

5.3: Research Strategy

5.3.1: Inductive Approach to Study

This subsection discusses the researcher's approach to social theory. In particular it points to the researcher's direction of reasoning in the conduct of this study. There are number of perspectives in which researchers approach social reality. Theories can be categorized along three important parameters including the direction of its reasoning, the nature of its explanation, and the theory's overall framework of assumptions and concepts (Neuman, 2007; Creswell & Poth, 2017). In particular, the direction to reasoning establishes whether the study approaches the inquiry deductively or inductively, the nature of explanation defines if the theory intends to predict, causally explain, structural explain or interpret social reality, and the overall the theory's assumptions refer to the beliefs on the nature of social reality and truth such positivist, interpretivist or critical theory (Hughes & Sharrock, 2016; Creswell & Creswell, 2017). Having articulated the important Meta theoretic assumptions, this section focuses on explaining the direction of reasoning employed, the level of analysis and units of analysis for this study.

First, in regards to the direction of reasoning, two major alternatives can be considered – deductive or inductive. By applying deductive reasoning in an inquiry process, the researcher initiates with concepts and theories which are used as a basis for collecting the empirical evidence (Neuman, 2007). Thereafter the empirical evidence is tested against these concepts and theories. On the other hand in utilizing the inductive approach to social reality the observations of the reality are the starting point for researcher from which abstract generalizations and ideas are developed (Neuman, 2007)

In this study, an inductive approach to social theory is preferred (Patton, 2002; Silverman, 2013; Creswell & Poth, 2017). As noted earlier, the central objective of this investigation is to explore the actor's experiences and perception of the challenges involved in the implementation phase of the concession type public-private partnership and the responses. In that regard, the author finds an inductive approach to this objective more appropriate. Particularly, instead of putting forward a hypothesis from the start, the study bases on a detailed observation of reality of an actual project and lived experiences and perceptions in the context of Uganda by interviewing different project actors and stakeholders. With the understanding that the theory is grounded in the data, these observations serve as a basis for new concepts that the thesis develops from abstraction (a detailed discussion of the data analysis procedure is provided later section 4.4).

Although in this study, the researcher does not intend to undertake a full depth of prescribed and structured procedures of grounded theory aimed at uncovering a theory (Glaser & Strauss, 1967; Strauss & Corbin, 1998), the study uncovers and reports important governance issues and response mechanisms employed by the actors in the management of the post-contractual phase of the partnership in Uganda and makes recommendations based on the lessons learned.

Second consideration is the level of analysis and explanation. In this regard this, although the researcher premises part of the study at the micro level because of its focus on the individuals perception and experiences of actors in the PPP project, the other part is at the meso level. The meso level of analysis refers to 'how societal and institutional forces mesh with human activity' (Olesen, 2000:217). In this case, it represents the intermediate link between micro and macro levels, with the macro concerned larger aggregates such and social institutions and the whole societies (Neuman, 2007). The meso level accurately align with the overall aim of this study, to examine the actors perceptions and experiences of the governance challenges and responses thereof at the implementation phase of the concession type Public private partnership in Uganda. Given the character of Public- Private Partnership as a formal arrangement based on mutual agreement and commitments, experiences can be individual or aggregated to represent the orginisational actors. In other words, both the individual and orgnaisations participating in the partnership constitute the experience. It is this mix individual actors and composite actors interacting and interdepending in the PPP implementation phase that makes this study fall more realistically in the meso level of analysis.

The third consideration is the unit of analysis. In this regard, this study bases on two units of analysis. The first unit is based on individual actor perceptions and experiences. These include the individuals lived experiences relating to the governance issues and their experiences in regard to the responses to challenges in the course of the implementation. The second unit of analysis is organizations. PPPs are interaction between different institutional units. In particular, public sector organizations and private sector organisations agreeing to work together to achieve mutually agreed objectives. In line with the study's guiding theory, these are referred to as composite actors. As opposed to individual actors, composite actors are representational and they project an organizational level behavior driven by its mandate, set of formal responsibilities as well as the institutional framework guiding its action. As a second unit of analysis therefore, this study considers the aggregate actions of this actors alongside the actions of the individual actors constituting their membership. As such, the individual experiences and perceptions of individuals are complemented by the organizational documentary evidence. In the end the principal value of the unit of analysis is that it permits the researcher to identify commonalties and differences between the experiences and perceptions of different respondents and allow for insights to be drawn on the underlying reasons and help better understand the behavior of participants and organizations.

That said, the inductive approach to reasoning and explanation of social reality adopted in this study aligns with the qualitative research strategy as opposed to the quantitative. Therefore, in line with the above philosophical positions, approach to social reality, and the central objective of this study, the qualitative research strategy is chosen for this study. After summarizing the important contributing elements of this study's research approach, the chapter embarks on the discussion of the of the qualitative research strategy and providing specific justification for the choice. The table 5.1 provides the summary of the research approach to social theory

Table 5. 1: Summary of the Research Approach to Social Theory

Research Approach	**Core issue**	**Study's orientation**	**Important assumptions**
Ontology	Belief on nature of truth and reality or the character of the unknown	Relativism	Local and co-constructed social realities
Epistemology	Character of knowledge, ways of knowing and relationship between knower and known	Subjectivism	Co-created findings from interaction and interpretation
Direction of reasoning	Research process: Deductive, Abductive, inductive	Inductive	Abstract generalizations follow from detailed and focused observation of reality
Level of theorizing	Level of analysis: Micro, Meso, Macro	Micro, Meso, Macro	Individual and organizational level actors
Unit of analysis	What exactly is studied or observed	Individual actors; situations and events	Perceptions and experiences of individual actors of particular situations and events
Theoretical framework	The theoretical approach that the researcher employs to guide the study	Institutional theory (elements of old and new)	The institutional context shapes the behavior of actors and influences the nature and choices of decisions made during the implementation of the partnership

Table 5.1 highlights the important research positions taken by the author in this study. To recap, the adopted research paradigm considers reality and truth as socially constructed

outcomes of an interpretive endeavor (Cunliffe, 2008; Denzin & Lincoln, 2011) that informs the research's stance on the nature of knowledge and the process of knowing as subjective that arises from relative interpretation of phenomenon (Neuman, 2007; Hughes & Sharrock, 2016; Creswell & Poth, 2017). In undertaking this study, the notion of governance plays an important role in the design and analysis phases. In particular, the governance concept provides and orienting framework for the management of the partnership at the implementation phase because actors can utilize the effective governance tools to moderate an ongoing relationship and minimize effects of inherent partners differences and of mutating partnership context. Thus, the governance concept provides an important lens through which this research investigates the challenges and responses at the implementation phase of public-private partnerships in Uganda. The next section expounds the alternatives in the research strategy and elaborates the researcher's choice of qualitative researcher strategy.

5.3.2: Qualitative Approach

Qualitative and quantitative research denotes principal methodological choices for an investigation. These options can be viewed as methods of inquiry or research strategies (Denzin & Lincoln, 2011; Flick, 2013; Ritchie et al., 2013; Creswell & Creswell, 2017). A research strategy is how the researcher puts together the methods and techniques to produce the most efficient and effective means of collecting and analyzing empirical evidence (Layder, 1993; Creswell & Poth, 2017). This section reviews the qualitative and quantitative as distinct strategies and justifies why qualitative strategy is more suited for this study than quantitative. There are important distinguishing feature of the strategies. Table 4.3.2 summarizes these strategy features.

As table 3.2.2 indicates, the quantitative study initiates with the hypothesis that the researcher tests in the course of research. This calls for an upfront identification of variables that the study will observe and measure. Moreover, the researcher is required to develop or identify measures in a reliable way to enable standardized analysis procedures. Consistent with the realist philosophical paradigms, quantitative research applies deductive reasoning to the inquiry process. In all, under the quantitative research strategy, the researcher formulates the hypotheses and then tests it empirically on a specific set of data (Flick, 2011; Creswell & Creswell, 2017).

On the other hand, qualitative research calls for the understanding of the complex reality through researcher's immersion and interpretation of unique and contextually determined data (Flick, 2011; Creswell & Creswell, 2017). Contrary to quantitative research that defines and measures observable variables that constitute a reality, in qualitative studies, reality is defined from within by observing the empirical data. As such, a qualitative data is less often driven by a specific hypothesis (Levy, 2008; Creswell & Creswell, 2017). Instead, the researcher develops concepts themes or generalizations during the process of data discovery and analysis (Glaser & Strauss, 1967; Creswell & Creswell, 2017). Table 5.2 also identifies the important characteristics of qualitative research.

Table 5. 2: Differences Between Qualitative and Quantitative Research Strategies

Distinguishing features	**Quantitative research strategy**	**Qualitative research strategy**
Use of propositions	The researcher begins with a hypothesis	The researcher captures and discovers meaning once

	and then tests it.	he becomes immersed in the data.
Nature of concepts	Concepts are in the form of distinct variables.	Concepts are in the form of themes, motifs, generalisations and taxonomies.
Use of Measures	Measures are systematically created before data collection and are standardised.	Measures are created in an ad hoc manner and are often specific to the individual setting or researcher.
Nature of Data	Data are in the form of numbers from precise measurement.	Data are in the form of words and images from documents, observations and transcripts.
Approach to theory	Theory is largely causal and is deductive.	Theory can be causal or noncausal and is often inductive.
Application of procedures	Procedures are standard, and replication is assumed.	Research procedures are particular, and replication is very rare.
Nature analysis	Analysis proceeds by using statistics, tables, or charts and discussing how what they show relates to hypothesis.	Analysis proceeds by extracting themes or generalisations from evidence and organising data to present a coherent, consistent picture.

Source: (Neuman, 2007:88)

It is however important to note that the themes identified in the review of the existing literature, the literature gaps, and the evidence from extant research may also guide qualitative research. In this study, the starting point is the themes and gaps that the author identified in the review of the literature. These were refined using the results of the pilot study findings (refined themes and other related decisions taken are discussed in the later section). Prior to the pilot phase of this study, the researcher identified the post contractual governance issues and were placed in six thematic categories as follows:

a) Partner competing institutional and organizational logics,

b) Performance management and control,

c) Management expertise and competence,

d) Risk management, and

e) Public accountability and transparency.

As opposed to quantitative research strategy, qualitative research is more often inductive in nature. Qualitative research is in line with the relativist paradigm that assumes reality as subjective and socially constructed. In that regard qualitative researchers often use data that is inform of words, voice, pictures, and images, while the quantitative data will be inform of numbers (Lewis & Ritchie, 2003; Creswell & Creswell, 2017)

The other distinguishing attribute is the influence and treatment of values. In a quantitative strategy, the variables are seen as objective data that is not affected by the individual value system. In other words, the researcher does not assume a particular set of values because they are assumed to represent an objective world view. Similarly, the researcher's own values do not have any effect on the investigation. In contrast, qualitative research inevitability takes into account participants biases, values and preferences. In fact, in qualitative research the researcher considers values and preferences as important ingredient of subjective reality, from the view point of an individual participant. In a similar vein, the researcher's own preferences and values are acknowledged to have substantial effect on the data in terms of what is collected, how its collected, how its analyzed and interpreted and how is it prioritized for as important and less important as an account of the reality (Barrett, 2007; Denzin & Lincoln, 2011).

In addition, social context is an important distinguishing aspect between qualitative and quantitative research strategy. On one hand social context is an important aspect of in qualitative research (Neuman, 2007; Flick, 2013). In particular, qualitative research consider context as a critical set of ingredient and circumstances that influence an event or issue under investigation. In light of this, when the investigator takes an event or issue out of context, the investigator’s interpretation of this issue becomes different and could be distorted. On the other hand though, in the quantitative research strategy, the contextual setting of the study is of no regard. In fact the investigator treats the investigation proves and variables as objective and cannot not be contextually misinterpreted or distorted by any contextual circumstances (Denzin & Lincoln, 2011; Ritchie et al., 2013).

Lastly, a significant difference between the strategies relates to the treatment of elements in relation to the whole. On one hand, quantitative research strategy investigate reality by isolating the identified elements for the whole picture while qualitative research places the elements into the larger picture (Ritchie et al., 2013). As such it is a holistic approach to assessment of reality underlies the qualitative research (Creswell & Creswell, 2017). Having expounded on the differences between the two strategies, the next subsection focuses on the justification of the qualitative strategy adopted in this investigation.

There is no outright single best or ideal strategy for every investigation and for every question or set of questions. As Flick (2011) states, ‘the central point of reference is the appropriateness of the methods to the issue under study'. This study’s central concern is to explore the experiences and perceptions of various actors on the public-private partnerships post-contractual governance challenges in Uganda and the ways and tools available to respond to these challenges.

To achieve this aim, this study will follow a qualitative research strategy. As the study centers on the subjective distinctive experiences and perceptions of actors on the challenges and response approaches in the implementation phase of the partnership, it is hardly possible to objectify these experiences prior to the inquiry. That means, in this study, the researcher does not put forward the research hypothesis in advance. In the alternative, this study utilises the empirical data to thematically categorize and illuminate the respondent's experiences and perceptions of the governance challenges and the response mechanisms. This is followed by the identification of lessons learned from the nature of differences and similarities on the respondent's experiences and perceptions on post contractual implementation challenges in Uganda. The qualitative strategy that this research adopts has the following specific merits that serve the said intention of this research.

First, in this study, qualitative strategy enables better examination of a complexity of reality in the founded in the nature of public-private partnerships as compared to the quantitative research strategy. For instance, diversity of actors that affect or affected by implementation of public-private partnership precludes upfront determination or objectifying of representative experiences and perceptions through variables. In particular, the various stakeholders involve the PPP will naturally require consideration of number of unique views and peculiar experiences in regards to the same partnership under consideration. An attempt to objectivize these experiences beforehand will not only be limiting but also very hard to determine such objective variables that reflect the diverse realities of experiences (Flick, 2013; Creswell & Creswell, 2017)

Secondly, in exploring the PPP post-contractual phase challenges and response mechanisms in Uganda, there is primacy of context. As opposed to focusing on the selected variables and their measures with little or no regard to the circumstances in which the issues evolve, a qualitative research strategy acknowledges the effect of context on nature of issues. In this regard the strategy allows for the consideration of the connectedness of issues in regard to the specific Ugandan context. To the best of researchers, knowledge, despite the practice, the post contractual PPP challenges in Uganda have never been systematically and academically investigated making this strategy appropriate as it facilitate this pioneer endeavor in the Ugandan social context. In so doing allowing for a more realistic and accurate understanding (Denzin & Lincoln, 2011; Hughes & Sharrock, 2016)

Thirdly, a study that centers on the individual actor's experiences and perceptions cannot be devoid of personal value positions. Infact, personal value may well premise the nature of experiences, perception, and prioritization of issues. A qualitative research strategy therefore becomes the more realistic way to approach such an inquiry. For instance, in studying a new model like PPP in Uganda, actors still have divergent values about the model itself and what the outcome focus should for such model. There are still apparent value divergences on private versus public sector service provisions. While some actors value direct public sector provision of public services, others are more open to new model to delivering these services. In other words there is not a common value system or dominant value position on the use of this model in Uganda. In that regard, the qualitative strategy enables research to seek to understand these values, probe for implementation experiences driven by these values and then arrive at value driven answers (Patton, 2002; Denzin & Lincoln, 2011) that reflect a holistic reality. To achieve this, for example, one of the preliminary interview questions to all interviewees was to seek their understanding of the rationale for involvement of the private sector in the public infrastructure and service delivery and seek to know if the interviewee thought it was a good decision to involve the private sector. Such a question enabled the exposition of personal values that is not normally a concern in quantitative strategy as the study is taken to be value free.

Fourthly, Public-Private Partnerships are still a relatively new phenomenon in Uganda with very limited number of projects that have reached implementation. Though the phenomenon is continuously gaining popularity, its practice is not yet wide spread. In such situation, a research strategy enables learning more from less is ideal. In fact, besides the limited practical examples of the actual projects under implementation, specific PPP literature on Uganda is rare. In this situation a qualitative research is more relevant and useful as it encourages more depth than a large number sample. In other words it would be difficult to justify a quantitative research study on PPPs in Uganda within the current scope of project implementation yet research is needed to improve the management of the existing arrangements and to aid better justification and development of more effective Public-Private Partnerships in Uganda going forward.

Last but not least, this strategy presents an opportunity to draw theoretical insight to feed into the management of Public-Private Partnerships, in particular the post-contractual phase of the public private partnerships. Although development of theory is not exclusive to qualitative research strategy, the direction of reasoning, i.e. inductive, on which it is premised, provides the basis for development of theory on the basis of primary empirical data collected in the process of the undertaking the research as opposed to testing of predetermined hypothesis identical to the quantitative research strategy. As such, the strategy provides the opportunity to contribute to furthering theory in the course of collecting, interpreting and identifying of insights (Lewis & Ritchie, 2003; Denzin & Lincoln, 2011; Creswell & Creswell, 2017)

That said, even used within the confines of a specific context, qualitative research strategy has its own shortfalls that limits its application as strategy and the extent of the value of findings generated from the investigation. First, procedurally, the in-depth nature of qualitative research implies that the resources in terms of time, labor and finance prevent study of larger number of projects. Also, the researcher subjectivity potentially biases the true reflection of the actual reality as depicted by the participants of the study, and it is difficult to replicate qualitative studies even within the scope of similar social context. These process limitations therefore hold implications on the extent of value and application of findings. In this regard the findings of qualitative research become unrealistic to generalize and apply in order contexts (Lewis & Ritchie, 2003; Denzin & Lincoln, 2011). Similarly, it is difficult to generate comparison based on qualitative findings between projects and or the phenomena in different social contexts (Lewis & Ritchie, 2003). Nonetheless, the research strategy carries its fundamental strengths which have been articulated above that make the approach more appropriate for this investigation at this particular time.

5.3.3: In-depth Case Study Approach

Case study literature suggests that critical incidents and extreme cases offer more to researchers than representative cases (Stake, 1978; Eisenhardt, 1989; Yin, 2011). This section discusses this study's rationale for selection of single case study approach and for the choice of the particular PPP case study project. It also describes the sector context for the case study. As noted earlier, this research utilizes the concession-type public-private partnerships as opposed to other forms of PPPs and in economic rather than social infrastructure projects in Uganda. In determining the case study project for the study, the researcher applied purposive sampling (Ritchie et al., 2003) and focused on three attributes that suggest the ability of the case project to provide an opportunity to elicit rich experiences in the context of Uganda where there is still a limited scope in projects of a public-private partnership nature that have reached implementation stages.

In that regard, in addition to the project being of a concession type and in economic infrastructure, first, the researcher thought for project whose formalization and contracting decisions were widely and publicly known. The researcher searched for projects whose contractual formalities were clear and unchallenged. In other words the researcher was looking for typical public-private partnership rather than an arrangement whose formalities could be easily challenged or misinterpreted as an outright privatization. The literature review section provided contextual background on PPPs and most importantly noted that the practice was operationalized at the same time that other formerly government owned enterprises were being privatized. With that in mind, it was important to identify a project whose formalization can confirm the intention of the public and private sector to work together in some formal way.

Secondly, longevity of the implementation phase was critical. Since this research focuses on the post-contractual phase of the partnership, the time spent in this phase was of great importance. The researcher therefore sought for a project with a longer implementation phase in relation to its agreed concession period. This was deemed important as the researcher considered that there was a better chance that the project actors have had wide ranging experiences with some defined level of repetition and pattern that can easily be identified by the actors as opposed to one-off experiences of little or no long-term management significance.

Thirdly, the researcher sought for a project with a much wider service outreach. In particular a project whose public service targets reaches a wider scope geographically and in terms of service users. This attribute was specifically sought to be useful because, in principle, the modality of public-private partnership is intended to provide public services and infrastructure access to wider citizenry as possible.

Fourthly, the researcher was also concerned with access, both physical and informational. The researcher sought for a project with ease in regards to physical location of important actors and the possibility of gaining the necessary access to information for the study.

Fourthly, in regard to sector context for this study, as noted earlier, the adoption of PPPs in the context of developing countries was accounted for as tools to support economic development. With that in mind, the researcher sought for sector that is viewed by policy actor's critical infrastructure to boost national economic development.

With these parameters in mind, the researcher reviewed national level literature as well as conducted pilot interviews (discussed in the section 5.4.1) to determine which one of the existing projects would be more appropriate as a case study on which to base as an empirical site for the study. The review of Ugandan literature, both scientific and grey, revealed that by

2018, Uganda had concession type public-private partnerships in the sectors of transport, energy, Water, tourism, business infrastructure as illustrated in Table 5.3 below.

Table 5. 3: Some of the Key Concession Type PPP Projects in Uganda

Sector	Concession PPP Project	Concessionaire	Effective operation date	Duration (years)	status
Transport	Uganda-Kenya railway	Rift Valley Railways	2005	25	Terminated
	Pioneer Bus Company				
Energy (Electricity)	Bujagali HydroElectric Power Project (BEL)	Bujagali Energy Limited	2012	20	Active
	Eskom Hydro (Nalubaale and Kira Power dams)	Eskom (U) Limited	2003	20	Active
	Electricity Distribution	UMEME Limited	2005	20	Active
	Mini Hydro Electricity plants	Several	Varied	Varied	Active
	West Nile Rural Electrification Project	West Nile Rural Electrification Company Limited	2003	20	Active
Water	Small Towns Water Projects	Several	Varied	Varied	Varied
Tourism	Serena Hotel	Serena Tourism Promotion Services	2004	30	Active
Business Infrastructure	Local Markets Development - several	Several	Several	Several	Active

Source: own work

Of these sectors, the electricity subsector projects met most of the purpose attributes identified for the case study. In particular, the electricity distribution public-private partnership project was the most suitable for this analysis. Specifically, in addition to the important attributes considered, the project also is well suited to support the exploration of issues involving the wider or associated with the service users. As compared to other projects in this subsector, only the electricity distribution partnership provided the opportunity to experience the interaction challenges with service users. The alternative, the electricity generation concession, did not. All together, the West Nile Rural Electrification Project operated by the West Nile Rural Electrification Company (WENRECO) and UMEME limited concessions were the most suitable to explore a broad range of issues of concern to this study. But, unlike UMEME-UEDCL Concession, WENRECO-UEDCL Concession is limited in operational scope – covering only the eight (8) districts in the North and Northwest of the country. Secondly, the project is also vertically integrated a model that is inconsistent with the government reform agenda of the electricity that led to the unbundling of the sector to create specialized business units.

Having considered all the peculiarities, this study therefore chose the UMEME-UEDCL Electricity distribution project operated by UMEME Limited as the single case study for an in-depth analysis. The section below provides a further and specific description of the project providing its context and important attributes.

5.3.4: Case Study Project Description

This project – UMEME–UEDCL electricity distribution concession is the largest single electricity distribution concession in the country. It covers 80% of the national market reach and manages 100% of the urban distribution network. The concession contract was signed 17th May 2004. As with all the other concession type PPPs in economic and social infrastructure in Uganda, projects were negotiated and concluded under different legal regimes and not the PPP Act which was only enacted 2015. Prior to the enactment of the PPP Act, projects were negotiated and implemented under the Public Enterprises Reform and Divestiture (PERD) Act 1993 and Public Procurement and Disposal of Public Assets (PPDA) Act 2003.

In this concession, the Uganda Electricity Distribution Company Limited (UEDCL) represented the public sector in the agreement while UMEME Limited is the concessionaire.

Following the power sector reform that led to the unbundling into different business units of the former vertically integrated government parastatal, Uganda Electricity Board (UEB), in 2001, UEDCL was incorporated as public company to own and operate the electricity distribution assets and to run the distribution segment. Two other companies, Uganda Electricity Generation company Limited (UEGCL) and the Uganda Electricity Transmission Company Limited (UETCL), were also incorporated to own and operate the generation and transmission assets and networks respectively. The private company is UMEME Limited, a special purpose company incorporated in Uganda. UMEME Limited was incorporated as special purpose vehicle by a Consortium; Globeleq (a UK registered company owned by CDC (70%) and Norfund (30%)) and Eskom Enterprises (a South African company). UMEME Limited leased distribution subsector assets under a long-term concession of twenty (20) years from 2005 to 2025. Table 5.4 highlights project features.

The peculiar project character is the Operate-Maintain-Transfer model according to which UMEME Limited will transfer the assets (i.e distribution facilities) to UEDCL no later than the year 2025. This is clearly spelt out in the series of agreements that constitute the concession package, including the lease and assignment agreement, the distribution support agreement, as well as licenses for distribution and supply of electricity issued by the regulatory authority.

Hence the partnership particularly features the private asset operation and maintenance for the project length. The table 5.4 displays summary of the key project features

Table 5. 4: The Key Case Study Project Features

Feature	Details
Scope	National (within authorized territory)
PPP objective	Distribution and supply of electricity in the authorized territory
Type of agreement between parties	A concession
Contractual instruments	Lease and assignment agreement (with UEDCL), distribution support agreement (with Government), Licenses for distribution and supply (with ERA), Power Purchase Agreement (with UETCL)
Implementation model	Operate-Maintain-Transfer
Concession term	20 years
Partnership phase	Operation (post contractual)
Value of investment	Approx. $500million (2018)
PPP actors	UMEME Limited, UEDCL, ERA, UETCL, Ministry of Finance, Planning and Economic Development
Financial structure	Investors' contributions in exchange for shares of stock, selling corporate bonds, plus user tariffs
Tariff setting	Tariffs set by the regulatory authority

Source: own work

Since 2012, following its initial public offer, UMEME limited is a public company listed on the Uganda Securities Exchange (USE) and on the Nairobi Securities Exchange (NSE). The Uganda National Social Security Fund (NSSF) owns 23% of the shares in issue. As of 2018, UMEMEs top five shareholders included National Social Security Fund 23.2%, Allan Gray 9.6%, Kimberlite Frontier Africa Master Fund 8.3%, other are, Investec Asset management Africa 4.4%, and

Utilico Emerging Markets Limited 4.3%. Having determined and described the empirical site for this investigation, the next section explains the decision to conduct the preliminary exploration through a pilot study.

5.4: Data Collection and Analysis Methods

5.4.1: Pilot Study

The researcher decided on the pilot in order to get a preliminary understanding of the issues involved in the post contractual (or implementation phase) of PPP in Uganda. Specifically a pilot study carries certain merits that to the author are informative for this study. First, a pilot expands an array of sources for gathering data for the study through meeting key informants that shape and refine other sources and how those sources can be better approached. Secondly, pilots facilitate refining the choice of questions that the researcher will ask during the main phase of interviewing. In refining questions, the pilot helps the researcher to know if the questions are clear enough for the respondent and if different respondents will understand the questions in the same way. Thirdly, a pilot helps the researcher to corroborate evidence. Corroboration is particularly important in helping the researcher validate certain experiences premised on factual incidents as opposed to perceptions and personal opinions of respondents.

For these reasons, the researcher conducted pilot interviews. These interviews were episodic in nature (Flick, 1997; Jovchelovitch & Bauer, 2000; Flick, 2013). As opposed to semantic knowledge that is premised on assumption and opinions abstracted and generalized from the actual experiences and circumstances, episodic knowledge is organized close to the experiences and connected to concrete situations and circumstances themselves (Flick, 1997). As an important element of episodic knowledge, in this study the researcher aimed at eliciting experiential knowledge. The actor's reflection of the different episodes in which respondents had personal experiences was an important data source.

As this study focuses on exploring actor's experiences and perceptions, the episodic data collection is fit for this purpose. As such, first, the pilot focused on eliciting preliminary knowledge closely connected to experienced circumstances. Secondly, episodic interviews have an element of helping generate pointed questions that facilitate the exploration of concepts and their connection with one another. As Flick (1997) puts it, an episodic interview '…includes a combination of narratives oriented to situational or episodic contexts and argumentation that peel off such contexts in favour of conceptual and rule-oriented knowledge'.

For the above aim, the researcher selected four interviewees. The first interviewee is a recently retired permanent secretary in the Ministry of Energy and Mineral Development (MoEMD). MoEMD is the national government department responsible for development and implementation of policies in the energy sector where the case study project belongs. In relation to the case study selected, this ministry oversaw the reform of the electricity subsector including leading the processes that enabled the participation of private sector in the generation and distribution of electricity in Uganda. The interviewee's deep and personal involvement as the lead bureaucrat in the conception and implementation of the private sector involvement arrangements in the sector privileges the interviewee to special experiences. Of particular significance is that the interviewee served in his position as permanent secretary (leader of the ministry) prior to the commencement of the project and stayed on in his position for 11 years into the implementation phase of the project. He retired in till his retirement in 2016 and is currently serving as presidential adviser on oil and gas.

The second interviewee is the former Director of the Privatization Unit under the Ministry of Finance, Planning and Economic Development (MoFPED). Until 2015 when the PPP law was enacted that led to creation of a separate PPP unit, still under the MoFPED, the Privatization Unit was responsible advising the government on all privatization related undertakings, including all forms of PPPs. It must be noted that prior to 2015 when the PPP law was enacted, all forms of private sector involvement where generally seen as some form of privatization and guided by the Public Enterprises Reform and Divestiture (PERD) Act 1993 – the legal framework that enabled privatization. As leader of this Unit, the interviewee was the principal advisor to government on the involvement of private sector in the electricity sector and in particular the concession model of private sector involvement in the sector.

The third interviewee was the former Executive Director of the Electricity Regulatory authority. ERA regulates the electricity sector and in this capacity the institution is well informed on the regular aspects of implementation of the partnerships. The interviewee was Executive Director of the regulatory authority during the first seven years of the concession until 2012.

The fourth pilot interviewee is the Regulatory Manager at UMEME Limited. As the concessionaire, UMEME Limited is one of the principal partners by virtue of UMEMEs responsibility of operating and maintaining the distribution assets. In other words UMEME is at the heart of this partnership. Similarly, the Regulatory Manager’s role is integral to understanding and maintaining the relationship between the operator and other stakeholders especially the regulatory authority. In this position the interviewee is involved in all important aspects of the partnership. In addition, before joining the UMEME Limited, the interviewee was an employee of the Regulatory Authority. Through his employment with the regulator and later with the operator, the interviewee has had consistent involvement in the interaction regulatory authority and the operator at different points. This understanding of both regulatory and operator perspectives makes the interview s very an important informant for this preliminary part of the study. Table 5.5 summarises attributes of the interviewees' positions, their organisations and their areas of expertise.

Table 5. 5: Attributes of Pilot Study Interviewees

No.	Interviewees position and organization	Interviewees areas of expertise	Ageny(s) involved with
1	Former Permanent Secretary, Ministry of Energy and Mineral Development	▪ Regulation ▪ Engineering ▪ Energy policy	Government
2	Former Director Privatization Unit	▪ Privatization	Government
3	Former Executive Director of the Electricity Regulatory Authority	▪ Regulation	Independent Regulator
4	Regulatory Manager, UMEME	▪ Regulation ▪ Economic	Private sector

The following subsection reports the findings of the pilot study and demonstrates how the findings helped to shape the substantive parts of the data collection and analysis of the results.

5.4.2: Preliminary Findings

After providing the respondents with basic information about the study, the reasons why the researcher had chosen them for the pilot and obtaining their consent, the researcher made inquiries. The inquiries on the five important areas were guided by the following questions:

- First, what issues dominate the attention of the actors ever since the operation of this concession commenced in 2005?
- Second, how would you rank these issues in order of significance-which ones would be of high significance?
- Third, from your experience, who are the PPP actors that are integral to the implementation of this partnership?
- Lastly, what documentation exists that you would recommend to help the researcher better understand the postcontractual experience of this partnership this far?

The researcher then followed with a preliminary analysis of the notes taken from the interviews. In so doing the researcher focused on identifying the commonalties and differences in the respondent's answers. These were then summarized and placed in different categories. Although there were some variations that emerged, the researcher believes that these were largely a result of differences in phrasing arising from the professional disciplinary differences of the respondents, overall the respondents identified largely similar issues.

The preliminary findings were categorized into the following aspects.

- First, there were issues related to the provisions of the contract,
- secondly the related to the tariffs,

- thirdly issues related to difficulty in satisfying different stakeholder groups,
- fourth issues related to public sector inexperience with public private partnerships,
- fifth issues related to risk management and
- six issues related to contractual equity.

Although the respondents did not use the words, such as “service affordability”, “partnership control”, all the issues pointed out aligned with the central themes and issues delineated from the literature which of this research presented earlier and as such added confidence on the direction of the central concerns of this study.

That said, an instrumental issue emerged in relation to initial plan to explore the experiences on the basis of these predetermined themes from the literature review. Although the pilot had by and large validated the themes, it was clear to the researcher that exploring the experiences and perceptions from the peculiar disciplinary jargon carried by themes could be limiting and thus there was a risk of losing valuable experiences. It was observed from the analysis of pilot interview data that there was a marked diversity in the ways that different interviewees identified the issues particularly as influenced by interviewee’s heterogeneity in professions and backgrounds. Although, as noted earlier, this study is approached from a specific professional discipline - management, the researcher noted that concepts used were not homogeneously understood by all participants. To this end, as the research strategy allows, the researcher chose to revise the interview format and not seek the experiences and perceptions based on determined thematic areas instead provide an opportunity for interviewees to express without attempting to fit within the bounds of terminology of the themes presented.

In regard to the actors, the pilot most importantly revealed the high level of interconnectedness of actors, in particular organizational actors, within the electricity sector that enabled further identification of other interviewees beyond the researcher's initial constriction of contracting and regulatory organisations named in the formal contracting documents. In particular, the pilot helped to justify the need to seek experiences of other players in the sector such as Rural Electrification Agency, as well as individuals that were involved and are knowledgeable of the immediate post contractual phase of the partnership. Some of these individuals had since either moved on to other organizations and careers, gone into personal private business or were retired.

The pilot findings also reinforced the need for the documentary analysis. Pilot findings particularly recommended to analyse the provisions of the contract signed, particularly the distribution support agreement, during the establishment of the partnership. The point made here was that although at the time of contracting the partnership did not use the terminology of partnership, the nature of contracts signed and the commitment of partners to the each other clearly demonstrates the partnership intentions. Also, interviewees recommended the review of the various reports posted on the website of the regulatory authority and of UMEME Limited to get a deeper insight on the issues they observed. Moreover, respondents recommended exploring documentation on discussions preceding the decisions to privatize as a foundation to locate the origins and how those origins of privatization could have shaped the practice later on. Although the latter is largely out of scope for the current study, the review helped to refine the literature review sections.

In a nutshell, the pilot interviews helped the study in different ways including confirming the significance of governance issues at the implementation stages of the partnership, rethinking the approach to the substantive interviews, revealing the necessity for inclusion of additional stakeholder representatives in the sector, and reinforced the need to documentary analysis as an important data collection method. In addition the pilot study has helped to refine the central issues of concern for this study. Having utilized the pilot interviews to refine the substantive data collection processes, the rest of the data collection exercise was completed. The following section discusses how the interview participants were identified followed by how the data collection methods were used.

5.4.3: Selection of Study Participants

This study adopted the gradual selection of respondents based on notions of relevance to the research aim as opposed to participant's representativeness (Browne, 2005; Flick, 2013). In particular, the researcher employed purposive sampling to determine the research participants. According to this sampling technique, participants were identified on the understanding of the relevance they have to support to achieve the aim of this research which to explore the perceptions and experiencing of actors on the governance challenges of at post contractual phase of the partnership and the response mechanisms. In this regard the participants experience ought to support that purpose in at least three important ways.

First, it was important that the participants chosen play or should have played a direct role in the partnership investigated in period after the contract signoff. By direct role the author envisaged some level of participation in the activities and/or decision making process of the partnership or impacting the partnership management processes. Secondly, in choosing the participants, it was important to identify participants with senior management or middle level management responsibility. This attribute was particularly important in order to seek the opinions of persons responsible and privy to the challenges as experiences are different at different levels and across the different stakeholders. Lastly, it was important to identify those participants that have had significantly longer tenures working for one or more of partner organisations in the partnership.

With this purpose based requirements in mind, the researcher selected five groups of participants for the interviews. The first group included project actors of the private partner in the partnership at the senior and/or middle management level (such managing director, heads of sections, deputies and senior managerial staff). The second group included actors from the regulative organization. In selecting participants for this group the researcher took additional effort to identify the actors that are specifically engaged with the case study partnership. Since this is a regulated sector with the regulator mandated to regulate the entire electricity industry it is likely that not all actors within the regulatory authority well informed about the chosen case study partnership. So it was important to identify those with direct contact with electricity distribution partnership.

The third group included actors from the public sector partner, the Uganda Electricity Distribution Company Limited, who are the leased asset owners in the partnership and principally the public sector representative in the case study partnership. The fourth group included the stakeholders from the government, such as policy level actors and experts in the

Ministry of Energy and Mineral Development. This group also included actors in the Public-Private Partnership unit, the Privatization unit, both under the Ministry of Finance and Economic development. The inclusion of this group was important to elicit sector wide experiences and perceptions about the PPPs in general in the country and specifically to seek their experiences as policy actors who shape the actions of government that impact on the case study partnership.

The final category of interviewees was independent consultants. This group comprises individuals experienced in the electricity sector and or has a direct involvement with the partnership currently through consultancy or held senior management positions in government, regulative, or with any of the partner organization before leaving or retiring to private work. The actors in this group became peculiarly important as they helped to harness some of the early post contractual experiences and perceptions.

It is important to note that these groups of respondents only became clear in the course of the interviews. At the onset these group were only indicative but as the researcher applied snowballing techniques to identify the actual individual actors to approach for the interview, the interviewees categories were later refined as presented later. In other words, the researcher initial focus was not the categories but purposively seek interviewees. This was achieved by seeking every interviewee to recommend an individual or two that they believed was familiar with the areas of concern for the study. After twenty one interviews it was clear to the researcher that saturation had been reached as no peculiar experiences were emerging. However because of the diversity of recommended individuals, additional interviews were conducted. Through the snowballing, the researcher was able to hold thirty one (31) interviews with twenty eight interviewees across the different groups, three of the interviews were follow-up in situations where the interview was interrupted and the researcher given another appointment to complete the interview. The table below 5.6 shows the different interviewee groupings with the respective number of actors interviewed

Table 5. 6: Summary of the Different Interviewee Categories

Interviewee category	**Number of respondents**
Private Sector Partner interviewees	4
Public Sector Partner interviewees	3
Regulatory Authority interviewees	5
Central government stakeholders	9
Independent consultants	7
Total	**28**

5.4.4: In-depth Semi-structured Interviews

In this research project, the researcher used the in-depth semi-structured interviews as the principal data collection method. In the subsequent parts of this section, justifications are provided that informed the decisions on the use of interviews and in particular the choice of semi-structured as opposed to the structured in interviews.

Generally, investigators utilise in-depth interviewing because of its peculiar advantages over other methods of primary data collection (Morris, 2009; Silverman, 2013; Creswell & Creswell, 2017). In particular, compared to any other method of data collection, interviews provide the researcher an opportunity to mix structure and flexibility to obtain experiences, opinions and perceptions behind the facts rather than only gathering facts; provides an opportunity to seek clarity and a chance to follow important aspects of the research that may not have been planned or anticipated at the start of the investigation process (Morris, 2009; Silverman, 2013). In the supporting the particular aim of this study -- to explore the perceptions and experiences of actors in the PPP field on the post contractual governance challenges and adaptation in public-private partnership in the Uganda, the researcher points to specific justification for interviews using interviews.

First, interviews facilitate in getting over gathering mere facts and figures about the partnership to actually capturing the diverse stakeholder perceptions and experiences of the post contractual governance challenges. To be able to capture these experiences, there is need for a face-to-face contact with stakeholders and to capture their own words. This opportunity is only provided by in-depth interviews not any other method that do not facilitate in person interaction.

Two, there is an added advantage of flexibility. Using flexible interview structures also provides an opportunity for free expression by the participants. Compared to other data collection methods such questionnaires where there is often expressing is limited to the extent of agreement with the predetermined variable as opposed to expressing as one experiences and perceives the issues.

Third, in the unique context of Uganda the preference is usually to have a face to face conversation and informal interaction as opposed to sending a survey questionnaire or conversation over the telephone. It is an established cultural practice for people to want to see the interviewer in person to build interpersonal trust and only then will it possible to have a free flowing, detailed and honest conversation. In this regard the interviews provided an opportunity for dialogue within the cultural comfort of the participants to express their experiences, perception on the modality of PPP generally but more specifically the actor experiences regarding the post contractual challenges and responses.

Fourth, face to face interaction also accords the researcher an opportunity to build interest and confidence of the interviewees in the research. Explaining the rationale for the research and why the views of the interviewees are important for the study generate the necessary traction and removes any doubt could be either on the use of the data that the researcher collects.

Further, in this thesis a determination was also made by the researcher between the structured and unstructured form of interviewing. The driving concern at this point of the study was to aim at achieving the balance between the restricting structures and restricting ambiguity (Jones, 2004). In other words if the study opts for the unstructured interviews that would potentially lead to an ambiguous set of responses that may not yield sufficient data necessary to answer the set research questions. On the other hand if the interview is structured, it could limit the responses in ways that obstruct the collection of the sufficient or missing out on important details and aspects locked out by the structure.

In this sense, instead of a non-directive style, a more prudent approach to obtaining data at the same time reducing ambiguity was to determine some interview structure. As Jones (2004) stated 'In short, researchers are more likely to get good data, and know what data they are getting, if the interviewees are told at the outset what the research topic is, even if initially in relatively broad terms, and why the topic is of interest'. Bearing in mind the necessity to determine an adequate balance between ambiguity and structure, the researcher determined to adopt semi-structured as opposed to structured and unstructured interviews for collecting data in this study. In addition to the overall merit of unstructured over the other forms of interviews, in the context of this study the following specific reasons underscored the choice semi structured interviews.

First, semi structured interviews allow the researcher to focus attention on specific issues of interests while allowing a degree of freedom to the interviewee and the researcher to explore through probity some of the important and emerging strands within the issue of interest in the course interaction. In this research, the themes from the literature reviews offered the guiding framework up on which the interview developed but was not only restricted to these themes. As noted in the pilot findings, caution was required on the extent to which the researcher focused on the specific themes and in particular the language used to explore the experiences on the identified themes.

Second, in this study a semi structured interviewing style also enabled the researcher to maintain a necessary level of consistency in the course of interviewing a large number of interviewees across different times, places, and organisational contexts. While structure in this study was not intended to overly limit the interview it was intended to keep the focus in a way that the interview does not divert to aspects unrelated to the core concern of the research. In studying a complex phenomenon as PPPs with many different actors, interests, which can view issues from different viewpoints the risk is high that the focus on the main concern of the investigation can be lost. In the course of interviewing for this research, for example, the researcher could vividly observe academic disciplinary lens in which interviewees shared their experiences. The lawyers, economists, accountants, seemed to quite easily focus on the issues the aligned with their disciplinary competences as did interviewees that worked in different stakeholder organizations such as the regulatory authority, the public sector partner, the private operator, the line ministry among others. In this sense, it was necessary to maintain the focus through the semi structured interviews.

Third, semi structured interviews enabled the researcher to anchor the interview on events, incidents, happenings upon which the actual experiences and perceptions of the interviewees were explored (Patton, 2002; Jones, 2004). For example one of the questions that was structured yet elicited an open conversation in this study was “after the “ribbon” was cut what have been the most sticky issues in the partnership, and how have they been addressed?” This question is a clear example of semi structured inquiry as it does not limit the interviewee but at the same time controls the scope of his or her response. In addition, it conditions the interviewees to identify incidents and anchor their response on the incident.

Having chosen the indepth semi structured interview as the principal method of data collection, the author took particular attention to ensure that the process of interviewing is not prejudised or biased (Bourke, 2014). On the part of the interviewees, it was important, as noted earlier, to ascertain from the interviewees their personal positions on whether or not they thought it good decision, in the first place, to invite the private sector in the electricity. Although discussing the rationale for adoption of public private partnership in the electricity sector in Uganda is not the core intention of this study, it is worth noting that most of the interviewees noted that it was important at the time to invite the private sector participation in the industry. Majority of the interviewees accounted for this position on the basis of the poor performance of the industry at the time which was characterized by inefficiencies and low public investment.

Similarly, prior to the study, the researcher had for long followed the broader liberalization agenda of Uganda following advent of privatization in the country and the decisions to enact laws to operationalize the economic liberalisation agenda. It is important note that most of the reporting and commentary in the local media in Uganda was critical of economic liberalization, in particular the process of privatization. Although the researcher was aware of the dominant negative sentiment, especially among the public stakeholders on the broader privatization processes in the country, the researcher was cautious not to allow this distract from conducting the interviews in an impartial manner. In particular, the researcher maintained neutrality in asking the questions, probity, and in receiving the answers during the interview process. Except in situations where probity was absolutely necessary to seek clarity, the researcher took caution not to provide their opinion to the respondents or making a value judgment that could have distorted and/or influenced the data collection activities. The next subsection discusses the complementary data collection method of documentary analysis.

5.4.5: Documentary Analysis

In addition to in-depth interviews elaborated above, this study utilized documentary analysis as data collection method (Denzin & Lincoln, 2011). Documentary analysis includes the gathering of institutional documents and analyzing the content of the text in media such as official documents, newspapers, books (Neuman, 2007; Silverman, 2013). As the official language in Uganda is English, it was easy to critically evaluate a range of documents without requiring translation services. The interplay between the interviewing and documentary analysis was complementary in nature. In the particular case of this study the interplay happened sequentially.

As complementary method to interviews, for example, during the interviews the interviewees would express experiences and perceptions about certain events, objects or issues that are formalized and written down. For instance a reference to a clause in the agreement that is a source of recurrent disagreement between parties or that is perceived as unfair. In this regard the researcher reviewed the particular agreement and the clause to clearly understand the provisions and the proper context of the interviewee's experiences and perceptions.

As sequence, documentary analysis followed indications from the interviews. For instance the researcher utilized documentary analysis to develop a detailed understanding of how particular decisions were made and who was involved in the decision. In addition the documentary analysis also helped to validate some of the experiences that were expressed by the different stakeholders. For example, in instances where the interviewees noted that a structures was created, a guideline was developed or committee was instituted to address a particular challenge in the PPP implementation, these observations were validated by reviewing the available documents related to the said the occurrence.

That said, documentary analysis has shortfalls, Neuman (2007) summarized about the method, 'It cannot reveal the intentions of those who created the text or the effects that messages in the text have on those who receive them'. So to address the limitations of the methods of data collection that were used for this study data sources were triangulated.

5.4.6: Data Sources

Having discussed the approaches of collecting data, this subsection explains the rationale for mixing the data sources in the course of this study. The application of multiple data sources, i.e. data triangulation, allows further enrichment of the knowledge and findings by combining different types of data (Denzin & Lincoln, 2011; Flick, 2013). As Flick (2011) observed, the use of multiple data collection methods may led to three different types of results: converging, complementary, and contradictory results. For instance, comparing the interview results with the data in policy documents, partnership reports and any analytical papers may reveal differences between the different stakeholders understanding of different issues. A clear example of such discrepancies in this study relate to the perception of contractual provisions agreed prior to the partnership commencement. In this regard, the documents highlight and commit the partners based on the specific understanding and projection of the circumstances at the time, such as risk, at the time. But during the interview some of the actors raised specific concerns on those provisions an expressed experience and perceptions that challenged the equity for the same provisions. In other case, results of different methods of gathering data may complement, as noted earlier in the case of this study. Overall though, instead of just interviewing the largest possible number of respondents, it is often more informative and more contributing to knowledge to identify the differing data or complementary by using triangulation (Flick, 2011).

In a nutshell, as observed earlier, data collection methods have to be consistent with the type of research questions and the research strategy adopted to answer the question. The exploratory nature of this question has led to a qualitative strategy adopted for this study which also informed the choice of in-depth interviews as the main data collection method. The interviews have also enabled the researcher to capture the unique experiences and perceptions of actors familiar with or involved with the management of the project at its implementation phase. The documentary analysis helped to complement the interviews in many important ways such as clarifying the issues, providing details, and validating the experiences. In addition since this study necessitated retrospective reflection from interviews over a thirteen (13) years of implementation, interviews alone would not be sufficient to provide the necessary information and also to clarity issues for which respondent might have faint memory about. As Sommer and Sommer have pointed out that 'all methods have good and bad features. The advantages may lie along one dimension, such as economy; the disadvantages along another, such as objectivity. The goal of the researcher is not to find the single best method. For most problems, several procedures will be better than one, even though each has its limitations; these tend not to be the same limitations' (Sommer & Sommer, 1997). Having discussed the data collection approaches adopted in this study, the next section details how the data was analyzed and provides specific rationalization for the methods and tools employed.

5.4.7: Methods for Data Analysis

As with many genres of qualitative research, thick descriptions lay at the core of data analysis in this study (Patton, 1990; Ritchie et al., 2013). Thick descriptions are the detailed accounts of interviews experiences which the researcher makes explicit and places in appropriate context (Holloway, 1997). In this research, the researcher conducted the analysis through an analytical framework approach (Patton, 2002), in particular thematic analysis (Braun & Clarke, 2006). The analytical framework set out the initial boundaries of concern while the thematic analysis provided the detailed actors experiences and placing them in context (Braun & Clarke, 2006). Following the review of literature on the post contractual governance issues in PPPs, themes that demarcate the analytical framework were drawn. These were subsequently validated and refined with data from the pilot interviews.

As the purpose of this study is to explore actor's experiences and perception on the postcontractual governance challenges and the response mechanisms in PPPs in Uganda, this study conducted an analysis that enabled the simultaneous determination of the first hand challenges and identification of the response mechanisms employed by the actors in Uganda. As noted earlier, although the literature review provided framework of important themes, following the experience from the pilot study the researcher decided against strict adherence to the conceptual language framing of the identified themes during interviews process. Instead interviewees were provided an opportunity to frame and share the experiences and perceptions in their own words and expressions. The intention was not to undermine or disregard the important issues and themes already delineated through the literature appraisal but rather to allow interviewees to share their own perspectives without being influenced by either terminology or conceptual abstraction of themes that could affect in anyway the expression of interviewees own lived experiences of the issues. This approach was helpful in this study in important ways.

First, the interviewees were allowed wider frame of reflection, two, the interviewees did not feel the pressure to "look for something specific that fits in the box" and, three, the approach enabled a free "challenge-response" flow of conversation. Infact, in instances where the interviewee skipped to provide how the identified issues were addressed, it was easy for the researcher to probe quickly and more effectively by asking a simple follow up question such as "*what was done about about?*", *"how then was that addressed?", "how did you come out of that situation?", "was that the only way that issue was handled?"* among others.

5.4.8: Thematic Analysis

Having uncovered the various experiences in the actual words of the interviewees, the audios were transcribed by the researcher. Thereafter, with the help of the qualitative data analysis software, NVIVO, the researcher followed three stages in the analysis.

In the initial stage, the researcher assigned a code to each of the identified challenges by the interviewees as well as a code each for the identified response mechanisms. Infact this initial stage of the analysis happened both simultaneously and sequentially. Simultaneously because the coding for incidences depicting challenges was done at the same time as coding for responses. The sequence is that the coding for response mechanisms was preceded by coding for incidences depicting challenges. In coding for challenges, the researcher was looked statements that reflected an anomaly in the course of the operations. Some of pointing statements that preceded the interviewees identification of these challenges included "*…everything was going well until….", ''sometimes it like it war…'', ''…PPPs are like a marriage sometimes things don't go well….".* In a similar way the response statements to the challenges almost always followed immediately. In this case the pointer statements such, *"….it was hard but we had to….", or "….we have to sit down….."* among others, led the researcher to coding the response action.

In the second stage of the analysis, the researcher merged similar statements. This was done for both challenges and responses that the researcher coded. In the third the stage, the researcher further categorised the responses according to themes. In creating categories for challenges, as noted earlier, since the literature review had identified the important themes on challenges during the literature appraisal, the researcher applied themes to the list of identified codes on challenges. For the codes that did not fit in the predetermined themes, new categories were determined if they were related in some way, or left as standalone issues. The important themes are further categorized into three broad themes and subthemes that are reported and illustrated in the next chapter.

Similarly, the researcher coded the responses inductively and ultimately categorized the response mechanisms into four thematic categories including institutional complementation, enforcement of contractual safeguards, government and development partner sector wide support, stakeholder education and awareness rising. Having discussed how the data analysis was conducted in this study, the next section details the safeguards placed to ensure the research validity.

5.5: Research Validity and Ethics

5.5.1: Study Validity

In qualitative research, research validity is in its truthfulness (Neuman, 2007). Flick (2013) sums it that 'the question of validity can be summarized as a question of whether the researchers see what they think they see'. Kirk et al. (1986) specifically advise to be cautious to avoid three types of errors a) to see a relation or principle where they are not correct, b) to reject the relation or principle where they are indeed correct, and c) to ask wrong questions. While the overall discussion in this chapter is geared towards demonstrating and rationalizing the choices made to guarantee the truthfulness and value of this research, particular emphasis is placed on the importance that the researcher placed on triangulation across the inquiry process.

As Flick asserted, in the research methodology, 'Triangulation as a keyword is used to name the combination of different methods, study groups, local and temporal settings, and different theoretical perspectives in dealing with a phenomenon' (Flick, 2013). This study has applied triangulation in two important aspects of the study including data collection and data analysis. First, during data collection, multiple data collection methods and sources have been utilized to gather the data necessary for this research. These various sources of data included interviews from public sector organisations such as the Ministry of Energy and Mineral Development, the government owned electricity distribution company, Parliament of Uganda, the independent regulatory organization.

Other sources included interviewees from the Private Sector Partner Company, international consulting companies, private consultants and retired senior professionals in the public and private sector. In addition the diverse interview sources, the study gathered data through analysis of documents. These documents included the contracting documents that spell out the commitment and obligations of different actors, reports of specific activities and decisions, parliamentary inquiry reports. In the interest to achieving a valid study, the data collection and sources were triangulated as above.

Secondly, the study triangulated the analysis. In particular, the study utilized internal literature appraisal to identify the principal streams, themes and gaps. Special attention was paid to the appraisal of international PPP literature the nature of governance themes it highlighted as well as areas deserving of further inquiry. Thereafter a pilot study was conducted where four key informant interviews were conducted - as result of which led to further refinement of the central areas of concern and methodological adjustments. In addition, the researcher conducted the analysis of institutional documentation and thematic analysis of the interview data gathered. It is important to note that in this study, triangulation of sources of data as well as data analysis was conducted with the aim of complementing approaches as such the sequence and timing of triangulation was not an important consideration. In particular it was a normal practice in the conduct of this study to consider different data sources and or improve the analysis by renaming themes or moving subthemes from one central theme to another as the researcher deemed useful and illuminating.

In all this, the researcher drew important insights from (Ritchie et al., 2013) who suggested the use of the following parameters to ascertain the validity of the research.

- *'Sample coverage*: did the sample frame contain any known bias; were the criteria used for selection inclusive of constituencies known, or thought, to be of importance?
- *Capture of the phenomena*: was the environment, quality of questioning sufficiently effective for participants to fully express/explore their views?
- *Identification or labeling*: have the phenomena been identified, categorised and 'named' in ways that reflect the meanings assigned by study participants?
- *Interpretation:* is there sufficient internal evidence for the explanatory accounts that have been developed?
- *Display:* have the findings been portrayed in a way that remains 'true' to the original data and allows others to see the analytic constructions that have occurred?'

By combining rigorous literature appraisal, pilot interviews, data collection and analysis triangulation protocols within the context of the above internal validation parameters, this study was able to generate powerful corroboration of evidence and derivation of important insights very closely grounded on participant's experiences and perceptions of the post contractual PPP governance challenges and responses in Uganda. The final section of this chapter explains the ethical considerations taken in the various phases of this study.

5.5.2: Ethical Considerations

For all interviewees in this study, the participation was voluntary with consent sought prior the interaction (Ritchie et al., 2003). For the identified interviewees, the researcher had a brief meeting, face to face and/or over the phone to explain the purpose of the researcher, why the interviewee is appropriate to contribute to the discussion. In addition the interviews were also informed of the possible duration of the meeting, and that the interviews would be used for only analytical purposes.

In the conduct of research the protection of participant's privacy is an important in guaranteeing participants safety. In this study, participants were assured of anonymity and confidentiality which are both important ethical standards (Ritchie et al., 2013; Creswell & Creswell, 2017). In addressing the ethical standards the consideration was specifically placed along a number of issues as follows.

First in obtaining *permission,* at the start of the empirical phase of the research, the researcher used personal connection to make contact to meet the pilot interviewees. While meeting the pilot interviews the researcher sought of the advice and recommendation of the pilot interviewees to identify the other participants for the substantive part of the data collection exercise. Following the referrals from the pilot interviewees, researcher made contact with the recommended participants to introduce him, the purpose of the study, check their willingness to offer an interview. During these initial phones calls, the researcher explicitly asked the potential interviews if policy existed in their organisations requiring the researcher to seek formal permission. Only in two institutions was the researcher asked to write an introduction letter addressed to the head of institution to request to interview a particular individual. In these instances the authority was granted for the interview.

In other instances the identified participants expressly indicated that such policies requiring permission for staff to be interviewed for academic projects did not exist but it was "common practice write a request". In all the instances were either by advice or practice that a request need to be submitted the same was drafted and submitted. Once the formalities were done and researcher and the interviewee made appointment to meet. During the interviews, the researcher requested the interviewee to help identify some actors (usually those they have had a professional interaction with) that might be insightful for the study, which they willingly did. Subsequently the researcher made contact with the identified respondents following the same procedure as above.

Secondly the researcher sought *informed consent.* For informed consent, the researcher briefed the interviewees of the purpose of the study and formally identified himself using the university identity card before commencing the face to face session (Sarantakos, 2012; Creswell & Creswell, 2017).

Thirdly the researcher too measures to *protection of participants' identity.* The researcher stored the data in anonymised basis with password files. The only information identifiable is the stakeholder category that the participant belongs, for example ERA, to refer to the regulatory authority interviewees. During the analysis, the researcher assigned codes to the participants to avoid disclosing their actual identity (Ritchie et al., 2003; Neuman, 2007).

Fourth, the study ensured *confidentiality.* The researcher did not disclose the identity of any of the participants to any other person not directly connected to the researcher's purpose. Similarly the researcher does not disclose any confidential documents to any party that is not authorized or unrelated to the research (Patton, 2002; Flick, 2013)

Firth, the researcher took measure to establish and adhere to the participant's *comfort zone.* The researcher informed and consistently reminded the interviewee of their right discontinue the interview if they felt uncomfortable at any point or to ask that their views not be included in the analysis (Flick, 2013)

Sixth, the as earlier indicated, the researcher undertook to ascertain any *conflicts of interest.* There were no conflicts of interest related to either the researcher professional or personal affiliation with the case study or the participant in the interview. Only in one instance did the research interview a former work colleague but the relationship does not have any obvious implications on to the study atleast to the best understanding of the researcher.

Seven, are measures to curb any *researcher bias.* In this study the researcher adopted a position of neutrality in which the researcher avoided portraying or identifying with or against any a particular position in the course of the discussion. The probity was employed in a way that sought clarity and elaborated rather than challenging or affirming any particular experience (Patton, 2002; Creswell & Poth, 2017)

5.6: Chapter Summary and Conclusion

This chapter has detailed the philosophical foundations and specific methodological choices made in the conduct of this study. Consistently across the chapter the researcher has placed emphasis on the important premise for the decision on research design, which is that the methodology ought to be appropriate for the research objectives and questions. The point of departure for the methodological choices made in this investigation was the articulation of the researcher's set of beliefs regarding nature of reality. In other words, it was important initially identify the researcher's ontological position which is either realist or relativist. The author takes the position that reality is socially constructed and subjective. In relation to this study, a relativist belief system is uniquely useful in investigating complex phenomena as it has the ability to aid understanding, exploration and explanation of complex environments.

The researcher's belief system on nature of reality has important ramifications on the ways of knowing and the relationship of the researcher and the researched, i.e the epistemological positions. Accordingly, the researcher adopted a subjectivist or interprevist approach to knowing – an approach that is premised on the assumption that all knowledge, reality, and action are subjective outcomes of interpreted subjective experience that is influenced by unique social and cultural influences.

Following those ontological and epistomological stances adopted by the researcher, specific bearing was established on the nature of the subsequent choice of inductive as opposed to abductive and deductive reasoning. In the inductive approach, the observation of the empirical data is the fundamental starting point of the research. In this case, instead of putting the hypothesis upfront, the study made in-depth observations of postcontractual management issues and responses in the context of Uganda from a range of sources. From this, the researcher develops abstract ideas and explanations. In other words, theory and hypothesis builds from the bottom up based on empirical data.

Since this study premises on the experiences and perceptions of actors, qualitative rather than a quantitative type of data needed to be gathered this influenced the qualitative approach that was chosen. The qualitative approach subsequently influenced the appropriateness and choices of methods of data collection and analysis where upon the researcher adopted in-depth semi-structured interviews as the main data collection method complemented by documentary analysis.

In conducting the data collection, the researcher was mindful of the need to triangulate both the data sources and analysis procedures. In triangulating the sources, the researcher utilized multiple interviewees from different professional and institutional placements determined necessary and insightful for the purpose of the study. In addition, different sets of institutional documentation from varied individual and institutional sources were used to complement the interviews. In this way, corroboration of evidence was possible to permit the researcher to claim a high degree of study validity. The next chapter presents the findings from the analysis of empirical data collected from interview and documentary and subsequently analyzed as detailed above.

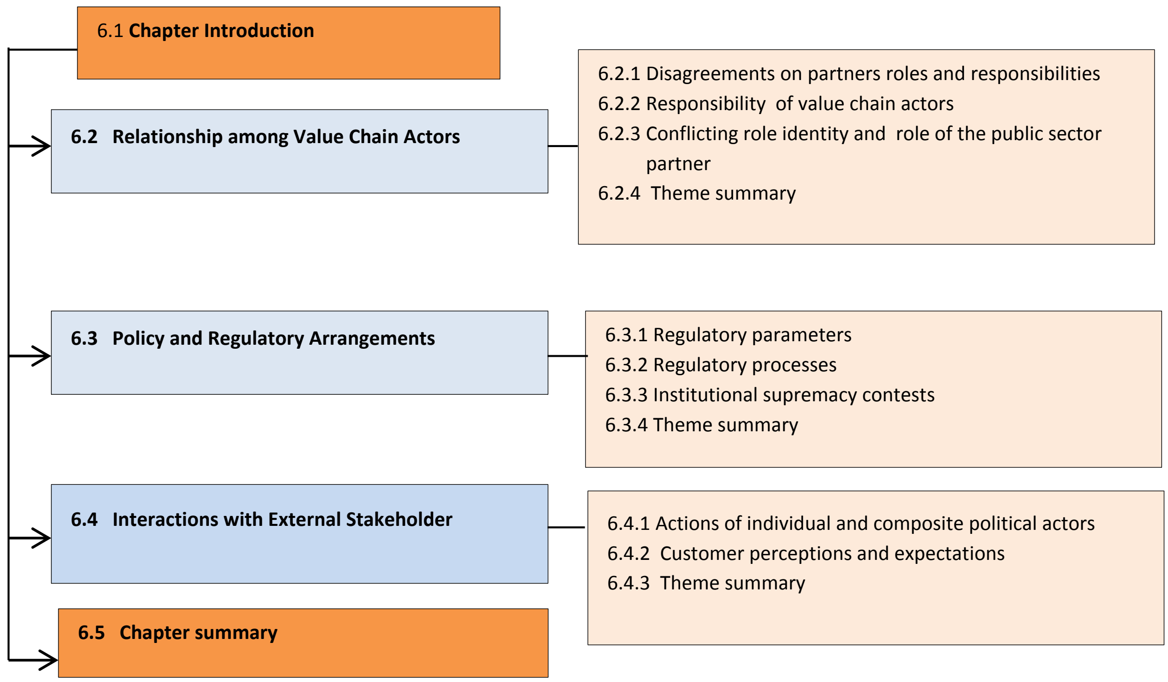
CHAPTER 6: POST CONTRACTUAL GOVERNANCE CHALLENGES

6.1: Introduction

This is the first of the two research findings chapters. This chapter reports the identified post contractual governance challenges in the electricity distribution PPP in Uganda. Specifically, this chapter presents thematically delineated findings from a unique set of qualitative data obtained from interviews with present and past individual actors of operative, regulatory, policy organizations as well as independent consultants directly involved and/or familiar with the case study PPP. The interview data is complemented by the study of formal documents that inform the implementation of the partnership. Anchored in the individuals actors direct experiences and perceptions of difficulties faced and/or facing the partnership from 2005 to July 2018, the thematic findings are illustrated in actors own words and with excerpts from documents. The period covered is the post contractual period so far experienced and as such reflects a period of actual lived experiences devoid of assumptions and speculations.

Shaped by the available research and assumptions of institutional theory, the thematic analysis of the data obtained reveals important difficulties that are organized in three important categories, These are: a) the relationship among value chain actors; b) policy and regulatory arrangements and c) interactions with external stakeholders. In other words, the specific issues identified relate to these three broad themes. The subsequent parts of this chapter expound on the three themes. In expounding the themes, the key issues are illuminated and evidenced using direct quotes and documentary excerpts, as necessary. Each theme ends with a specific theme summary and general summary concludes the chapter as figure 6.1 further illustrates.

Figure 6. 1: Outline of the First Findings Chapter



Source: own work

6.2: Relationship among Value Chain Actors

This first theme presents the nature of partnership and actor interactions in the case study context. In particular, the theme identifies the unique interconnection of actors in this concession and illuminates the defining aspects and markers of difficulty that arise from the interrelationship. This theme particularly demonstrates the complex interaction, depicts underlying contests of authority and unclarity on the identity and role of public sector contracting entity vis as vis other public sector interested parties.

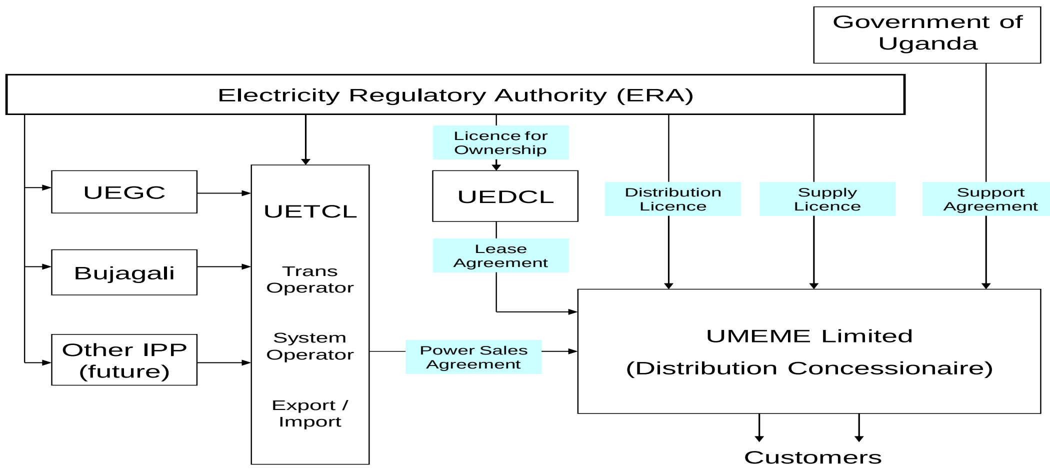
The electricity service value chain actor definition and interaction in the Ugandan electricity distribution context is informed by two aspects. First, as detailed in chapters 4 and 5, following the electricity sector reforms that led to unbundling of the vertically integrated electricity sector in the late 1990s and early 2000s into distinct business units of electricity generation, transmission and distribution, and the subsequent incorporation the UEGCL, UETCL and UEDCL as public holding companies of the respective units, interdependent actors, based on their sequence of dependence, were created. Therefore at a sector wide level the actors are defined and their functional interdependences predefine their routine sets of interactions. This set the first definition of actors and interactions.

The second set of actors and actor interactions arose following the formation of this case study partnership - electricity distribution partnership between UEDCL-UMEME Limited. This contractual agreement introduced the private sector partner (UMEME) and created institutionalized and binding interactions with other institutional actors. As depicted in the earlier discussion on the institutional framework in chapter 4, the concession agreements define exchanges between and among actors and lay the institutional foundation of their interaction. This set the second definition of actors and their interactions. The private partner takes over the operation of distribution assets but as matter of necessity, must interact with UETCL and UEGCL because of the functional interdependencies as well.

As such, in addition to the service value chain actors, the partnership created additional relationships and interactions. These additional relationships, beyond the electricity service value chain, are identified using the set of agreements, including lease and assignment agreement between the private operator (UMEME limited) and Uganda Electricity Distribution company limited (UEDCL), the distribution support agreement (Central Government and

UMEME Limited), power supply agreement between the Uganda Electricity Transmission Company Limited and UMEME Limited. The figure 6.2 below illustrates the relationships

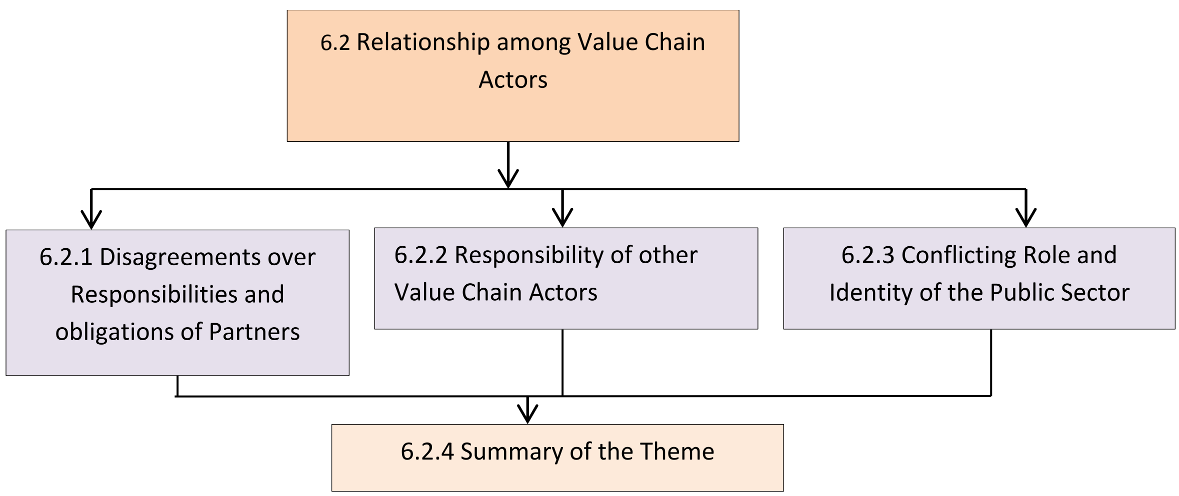
Figure 6. 2: Structure of the Uganda's Electricity Sector



Notwithstanding the multiplicity of actors and interactions involved in the sector, and the contractions of roles revealed later in this chapter, for the purpose of this study, the principal partners are considered to be UMEME limited as the private partner and UEDCL as public sector contracting agency. Specifically, arising from the non-routine role of the central government as enshrined in the distribution support agreement, this study does not consider central government as one of the principal partners. Similarly, this study does not consider the Electricity Regulatory Authority (ERA) as a partner - although the influence of government is revealed where it relevantly emerged. Similarly the role of ERA and issues therein are considered elsewhere in this study. As such the study will utilise the word actors to refer to any one of the entities involved and partners when referring to only the relationship between UMEME and UEDCL as principal partners.

Moreover, because of the high level of interdependencies in the sector, this study uses the idea of value chain actors to specifically refer to UEGCL and UETCL. The concept of value of actors as utilized here is to refer to actors in the electricity generation and distribution both private and public, including but not limited to UEGCL and UETCL. The rest of the theme identifies and exemplifies the key issues including disagreement over responsibilities and obligations of other partners, responsibility of other value chain actors, and conflicting role and identify of the public sector partner, as figure 6.3 below further illustrates.

Figure 6. 3: Theme Structure: Relationship Among Value Chain Actors



6.2.1: Disagreements over Partner Responsibilities and Obligations

Disagreement related to partners responsibilities and obligations emerged as one of the key aspects that denote difficulty in the infrastructure PPPs. The analysis of the interviews reveals that players tended to disagree on the scope and depth of responsibilities and on who bears certain obligations. In particular, misalignment of actor between activities is evident as one interviewee of the regulatory authority noted:

There are instances where everybody thinks of what they are doing is right and if you looked at it in its own isolation, it is indeed right. But if you integrate it with other plans it is either the activity is going to be undertaken at the wrong time or given what the investment X and Y is going to be, maybe it is not even necessary to even invest there. Or given this you could actually compliment by investing in the next activity or if you combine this maybe it is going to create collision in the network or for example we are going to visit certain place X alone then you can a make benefit if you went to place this infrastructure in a place where all of us can pick power from. Things like that. ***RE-PA-3***

From the above statement, it is evident that there are situations of conflicting plans and activities between actors and inadequacy of the sense of clarity and reconciliation of partner intentions. The interview further exemplified the mismatch in planning priority that further suggests sector wide actor responsibility disconnect:

[…] for example there is network being developed by the rural electrification agency, there is a network being developed by UMEME then there is a network being developed by for example UETCL but then you want to bring that together so that you can see complete picture of all of them and it's in that platform that things like that are shared and developed and everyone is in position to critique and bring in their opinion and it has been quite a productive forum. ***RE-PA-3***

The above statements depict the specific activities mismatch and also points to the sector level mismatches in plans as a major breeding ground for disagreements between partners directly or forms a basis for a conflict relationship.

There is also evidence of concerns of the operator doing the bare minimum in the face of huge opportunity to surpass the set targets. As the former Executive director of the regulatory authority remarked:

On the UMEME side I think they too would have done more than the bare minimum. You *see when we sign an agreement, me and you, that at least this percentage; they could do a lot more. You do not have to do the bare minimum. In some areas they did the bare minimum which was unfortunate, they could have done better but they knew when the time comes for you to look (at results) you will be in politics rather than on the technical ground to say what prevented you from achieving a higher. You know most Ugandans do not want to ask the question. Why didn't you do better than the bare minimum because contracts contain only the bare minimum why can't you do better?* ***RE-NA-1***

Similarly, the interview reveals contentions relating to mismanagement and neglect of the leased assets by the operator and noncompliance with the asset maintained plan agreed prior to the lease agreement. In the following excerpt, an interviewee noted maintenance as an ongoing issue between the asset owner and UMEME Limited:

[…] I think when UMEME was taking over the concession, I (remember) there was a document that was called network maintenance plan, basically there was a plan to rehabilitate the network so the issues I was aware of at that time mainly related to UMEME not following that plan strictly and claims from UEDCL that UMEME had neglected some parts of the network, that was usually the main contention. ***RE-PA-8***

Relatedly, the interviews reveals contention related to perceived neglect of obligation on human resources following the concession agreement and the taking over of staff of UEDCL. Although it not institutionally clear on which would be responsible was responsible for the staff obligation, it appears from the interviews that it generated contention:

[…] the other one was around people issues, most staff were recruited from UEDCL so in UEDCL they had gratuity so there was an expectation of the staff that UEMEME would be paying gratuity, which it did not and I think they escalated that issue even up to the regulator who came to try to mediate so there was that contention. ***RE-PA-8***

Moreover, disagreements between the partners involved inconsistencies on apportionment of the obligation and losses that arise from the partnership. Although losses informed the understanding and in fact the part of the motivation for the involvement of the private partner, there is a perception that the private operator has not been able to absorb and/or share on the losses that accrue. As a senior executive the regulative organization observed in the following excerpt:

> *They (UMEME Limited) were wise because they put in a clause in the agreement more or less insulating them from those losses. They were supposed to reduce them, fact or not I dont know because nobody did a study, the losses were not know the exact point where they were. So, for them they said losses are 48% but for us we accepted that your losses are 36%. If the losses were for instance at 28% and they said they were 36% and you allowed them this extra 8%. For each % loss for a year I think the revenues were like 4billlion shillings, it was a big amount of money. [……..] Now through that clause then they said we will reduce them slowly till year X […….]. So me I think they were wise in that and they had far more experience in managing and working on utilities compared to us from all over the world so they might have known this. I am not saying they knew but perhaps they did. So I suspect they might have known those things and how to manipulate them.* ***RE-NA-1***

Similarly, there is a contention on the supposed negation by the private operator to service the escrow account. The escrow account was provided for in the lease and assignment agreement to receive the lease rentals for the asset. These lease rentals are meant to be paid for by the operator. A quote from the interview below reveals that the Escrow account has since been depleted and the private operator not remitting the lease rentals as stipulated in the agreement thus reneging on its obligation.

> *Then there was an escrow account which was supposed to be funded from these lease rentals but it has since been depleted so UMEME, so you know these tariff applications keep mentioning that point we need to reinstate, we need to reinstate but, but that has*

also been an issue of contention. ***RE-PA-8***

It is evident from the foregoing interview evidence that the disagreements on honoring obligations by the partners, particularly the private party, remained a point of contention. Overall, the disagreement between partners relating to responsibilities and obligation is an evident area in which difficulty is witnessed.

6.2.2: Unclear Responsibility of other Value Chain Actors

As noted in the preceding section the idea of value chain actors in the study is used to encompass actors that are part of the service value chain but not directly involved in the partnership under study. Without exhaustion, these include actors responsible for electricity generation and transmission as these contribute directly in the service being offered. The evidence suggests that some actions and inaction from one or more of the value chain actors is an area that fuels the discontent in among the partners.

In the two excerpts below the inadequate delivery by the electricity generation actors of raised discontent between UMEME and UEDCL:

> *[….] but as I said part of the bad relationship was misconception. To begin with few people realized that UMEME was not responsible for shortage of power, they don't generate power, there is a generator, it goes to transmission then it comes to them and they distribute what is available. Now if there is not enough power to bring to UMEME, now in 2009-10 or 11 there was a time when there was alot of drought, Uganda is mainly hydro so the lake level dropped and we had to bring in thermo generator. Thermo generation the timing was also bad that when the barrel of oil was 140USD it even hit 147USD. So it was a bad time also. So power went through the roof because more than 50% was now thermol, people were saying now UMEME you see we told you don't*

privatise now you see what this private sector are doing. They are now exploiting Ugandans, actually the government had to pay subsidies but you privatise you are now paying subsidies now what was the purpose. But that was the situation but that money was not being taken by UMEME it was taken by the man who supplies the oil. So, again people look at UMEME because it is the one which interfaces with the customer. ***RE-NA-4***

Another excerpt illuminates the influence the value chain interaction involved in the concession as example in which failures in the value chain impacts the partnership. In the following example, the interview closely depicts the specific impact that on the private partner:

You see to an extent you do (anticipate hydrolic risk) but then sometimes you have really adverse conditions, like this particular one the region experienced huge drought, though it was there it had never been as severe as this one was, which really dried up a lot of water bodies in this region. You expect it will come that's why you put in some conditions a bit, hydrology (risk) you take so much you take so much. But then also the private sector is basically not like government, you know I (private sector) have borrowed money to put up an investment here now all of a sudden you don't have enough energy for me to sell how I am I going to service the debt on the other side? So that becomes an issue. ***PU-NA-3***

These two excerpts denote the instrumental connection but also the vulnerability of the value chain relationship on the partnership. In particular, and as mentioned earlier, in the context of such an interconnected and interdependent value chain, the interaction as well as the inaction or insufficient action from any of the value chain players generates discontent from the others.

6.2.3: Conflicting Identity and Role of Public Sector Partner

Further, within the theme of partner interrelationship, the oversight behavior of public sector partner is evidently important. As previously noted, as one of the principal partners, the public sector partner not only plays its contractual input obligation as established in the contractual, but it also has a direct residual responsibility on the outcomes of the partnership. In that regard, and in execution of that obligation by UEDCL, there is mounting discontent that is generated.

Disagreements on the Reporting Perspectives (Corporate Finance Versus Regulatory)

The reporting formats consistently raises in the interviews as example in which the reporting perspectives are a problem. In particular the differences in reporting perspective pit the operator, UEDCL and the regular on a contradictory course. While the Operator and UEDCL largely follow the corporate finance perspective, the regular follows the regulatory perspective. In following two different reporting standards anchored on different perspectives, the private operator and UEDCL on one hand and to the regulator on the other are often placed at cross roads. The quote below from an economist in regulative organization illuminates the nature of reporting contraction on the valuation of at the asset:

> *We have no problem with it (asset valuation) only that we are looking at it from different sides of the coin. So while for me as a regulator I look at this asset and look at its depreciation, the asset owner may look at it and consider it for revaluation. So its possible that from the books of the utility and the asset owner this value might be different from my value because me I am holding it and the consumer is paying for it once whether it has a double life from what we had assumed what is important for us is that we recover this investment and that is it.* ***RE-PA-3***

Similarly, the same interviewee notes the discrepancy in perspective as it relates to interest earning of the investment. In this regard the interviewee in the following excerpt illuminates how the differences in corporate and regularity reporting perspective extend to impact both the recognition of an investment by the actor as well as its return earning capability:

I will also give an example, UEDCL for example will look at for example as long as UMEME has put up a transformer, UEDCL will be happy to recognize that transformer as an asset because it has been procured, now the regulator will only recognize this asset as an asset only when it is in use and providing benefit to the consumer. If UMEME puts up line (electricity connection) and it is not energized (electrified) and therefore no consumer is connected to that line, in the perspective of the regulator that is not an asset and therefore it does not qualify for a return on investment. So if you left UEDCL to go and verify (the investments) on their own the picture they have, correctly from their perspective, is absolutely different from the picture we would have when the regulator goes to verify. ***RE-PA-3***

The above excerpts have illuminated the friction events based on divergences on the reporting standards. Beyond, that the excerpts also denote the overriding institutional logics that inform the practices of the three actors and how such logics inform the practical approaches to the relationship and priorities.

Technical Capacity of the Public Sector Partner to Supervise

Further, specific notes have been raised questioning the capacity of the asset owner (UEDCL) to provide technical supervision to the operator. The interviews depict that the incapacity of the asset owner (UEDCL) to supervise the operator arises from the low staff morale after the mandate was moved to the operator as well that the UEDCL consideration as a contingency entity in case the private operator fails. As one interviewee noted in the excerpt below:

If you look at UEDCL, you see people who remained took a low morale, well the good guys have gone to UMEME, and those that stayed simply said well we are here if things go wrong we will take over. In fact the theory was, this small skeletal group at UEDCL would hire somebody else to come in to run (the distribution), maybe somebody like Agrekko something like that. Now to me I think that was unfortunate. ***RE-NA-1***

Relatedly, there are comments suggesting the laxity of the in the reporting from the operator to UEDCL and non-adherence to the set reporting arrangements. As the following to comments suggest:

> *Not in the recent past but in there have been a few instances where that could have happened. It could be natural in some cases, just like a child if sometimes I know there is somebody above somebody, sometimes I can think that it is okay for me to be stubborn. But even with the regulator they can stubborn and it is not that once they see the regulator so they have heard and everything is a yes yes, no it does not necessarily mean so. I think one of the bargaining chip that could give them that, rather laxity in some cases, will be the contractual terms to say I how easy is it for you to break these contractual terms so they know they can be stubborn for three months and they will mend fences after three months.* ***RE-PA-3***

Limited due diligence by the asset owner has also been cited

> *Yes, there have there. Issues of non response for example from the asset owner, in most cases there have been requests for information and it has not been forthcoming as expected. Now sometimes even when that happens the utility will be brought to book reminded of the responsibility but even more commonly now what been happening is that when for example there is a submission going to be made by the concessionaire they will first pass it by the asset owner then by the time it is literally delivered here atleast they would have an eye and they have no objection perse so sometimes its only us, sometimes it looks disappointing but there are cases where the asset owner will say yes but then the regulator will say no because of the assessment from the regulatory perspective not from corporate perspective.* ***RE-PA-3***

Theme summary

This theme has illuminated the dynamics and influencing scenarios relating to the different value chain actor interactions. In particular the theme has provided evidence revealing the inconsistences and disagreements in assuming responsibilities and obligations, the role played by other value chain partners, and the ability of the public sector partner to supervise the operator are pointers of partner interaction as an important theme of difficulty in the partnership.

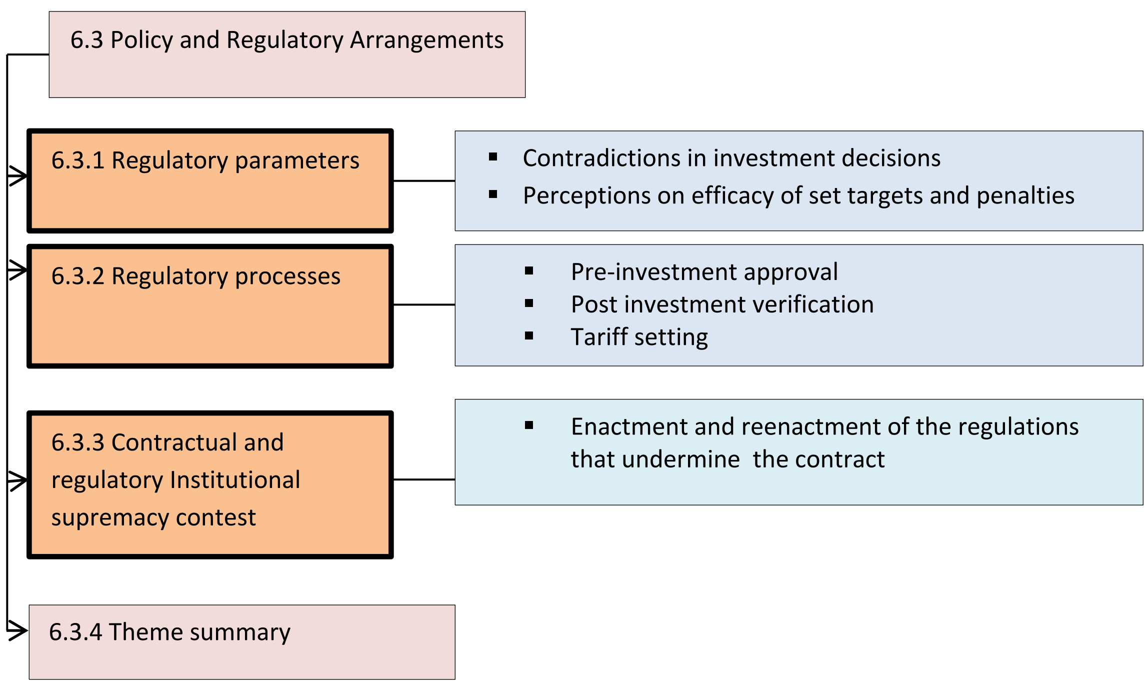
6.3: Policy and Regulatory Arrangements

Regulation of the partnership is an integral part of the management of the partnership. As depicted in the earlier sections of this study, the establishment of the regulator through an act of parliament, the amended Electricity Act of 1999, created the regulator to ensure the electricity industry, in general, operates to serve the public interests and to ensure that the private investments are secure. In execution of that overarching mandate, Electricity Regulatory Authority regulates the work of the electricity distribution partnership. However, the analysis suggests that in the course interaction between the regulator and the partnership, regulation becomes an important theme of difficulty. As the evidence will point to, the bulk of the regulatory interaction in the partnership happens between the regulatory authority, ERA, and private operator UMEME. Two important reasons account for increased interation between the regulator and the operator.

First, since the private operator is responsible for the provision of the service to the customers (citizens), in pursuit of ensuring the quality, accessibility and affordability of the service the regular is drawn the intervene as necessary in moderating this relationship. Secondly, the regular, as earlier noted, is responsible for licensing all actors in the industry and that includes UMEME. In the licensing regime, ERA issues UMEME with both the distribution license and supply license. The license based relationship therefore requires that the regulator ensures the players in the industry adhere to the terms and conditions of their licenses.

In the course of the interaction, the evidence points to three streams in which difficulties in the concession can be noted. These are categorized as regulatory parameters, regulatory processes and contradiction between the regulatory instruments and contractual provisions, These are expounded using evidence from the interviews. The figure 6.4 below portrays how the theme is organized.

Figure 6. 4: Theme Structure: Policy and Regulatory Arrangements



Source: own work

6.3.1: Regulatory Parameters

The section collates evidence to illuminates the nature of disagreements as they relate to or are associated with the parameters that are used to regulate the partnership and more importantly the operation of the partnership. In this section, a depiction is presented on the basis of the interview data that turbulent relationship between the regulatory authority and the private operator involves parametric changes along a number of dimensions. The key dimensions of parametric change the evidence points to relate to investment, guidelines, amendments, and targets to the operator.

Investment decisions

Search for investment in the electricity sector was the cornerstone of the involvement of the private investment in the electricity sector but at the same time the evidence suggests decisions on investments as the one of the maintain issues of difficulty. In the excerpt below, the attraction of investment as the overriding rationale was contextualized by one of the interviewees:

> *The reason why UMEME came here, this is what most people do not appreciate, it was an investment decision, the network was dilapidated there was a lot of money that was needed to revamp this network; government did not have the money. So, the reason why government sought out private intervention is because they needed someone who can bring in money and invest that so that it does not need to rely on national treasury. So, the way it works here is that, UMEME will come or any other private investor and invest in the distribution network through an agreed framework and earns a return on investment that is pre-determined, which is 20% in this case.* ***RE-PA-7***

Similarly, as the quote below from a former government minister in charge of the energy ministry illuminates, the decision to invite private participation in the sector and opening up the distribution to private participation was grounded on the poor state of the infrastructure and deficiencies in the needed energy to boost the economy.

Now what exactly happened was we had a power shortage in the country, we had a very bad shortage in the country; power generation had gone to as low as 60mw by the time the NRM (National Resistance Movement) government came to power. And industries could not run and many activities could not be supplied with power. And government had many things they needed to take care of, they needed to rehabilitate many sectors, many sectors of the economy needed to be rehabilitated and funds were not available, So, in order to make it easy to access funding to set up generation government had to take a decision to bring on board independent power producers, they also needed to open up distribution. ***PU-PA-2***

The above quotes clearly illustrate how the need for investment in the sector premised the involvement of private actors and the decision for the model of private sector participation. Equally, these excerpts allude to the importance of continuously aligning the interest of the actors involved in the partnership. As the evidence suggests, during implementation of this partnership, investment and decisions (both parametric and procedural) on investment regarding quality, quantity and pricing consistently generate contradictions among partners.

One of the parametric revelations related to investment is on the definition of the investment. Because investments earn a return for the private partner and at the same time are necessary to alleviate the challenges in the sector for the public service provision, a clear definition of what and what is not an investment is important. It appears though that this is not as clear and not as generally acceptable to parties as it should be. Both regulatory authority and private actor's interviewees observe this contradiction related to the definition. In the excerpt below, a senior economist in the regulatory authority acknowledged the discrepancy that occasionally addressed as a matter of opinion and negotiation:

The other issue that normally comes is what is an investment? In the review of the *license in 2012 we defined investments (expenditure) that should be under operations and maintenance (do not earn a return) and aspects that should be in investment (earn a return). And you have cases for example where the company (UMEME) feels that this should actually be an investment and in your opinion it's an Operations and Maintenance cost. So those cases are there and it is largely clear why the private sector would like to take it as investment. So you get those cases coming up here and there and then we either reject them or ask them to justify why they think it should be that and on its merits you consider if to take it or to reject it.* ***RE-PA-3***

Similarly, a previous employee of the private partner who now works for the regulator observed the continuing discrepancy in the definition of an investment attributing the discrepancy partly to the management of information. As he notes:

It is affecting because I think the two sides have not agreed on what constitutes an investment, the three sides actually (including UEDCL). But the practice is UEDCL usually does the verification together with ERA. The asset owner and regulator do joint asset verification of these assets. But UMEME is also to blame because they have not put in place a system to be able to track and manage these assets. Sometimes they cannot explain where the transformer they put is placed because maybe the GIS boy did not capture it properly, something like that. So it affects UMEME's profitability which eventually affects service delivery. ***RE-PA-8***

The above excerpts serve to illustrate an important discrepancy in the understanding and practical consideration of the investment that most importantly point to an area within investment that is turbulent. Equally, parametric concerns relating to investments arise in regard to quality of investments made by the private partner. As noted earlier, for different reasons, the partners are concerned with not just whether or not it is an investment, but also with the price, quality and quantity of the investment.

Sometimes you will be concerned on the pricing of investment and secondly you will

> *probably be concerned on the quality of the investments. The price on the investment is if you are making the investment, if you are bringing up a pole, is it the right pole, is it the right price of the pole,. Is it the precise investment or an over investment because you could be making an investment of 200 poles where we do not necessarily need 200 poles, we need 100 in the meantime to be efficient. Is it an issue of overinvestment? Those are things that we need to continuously look at and see if they are in line with the utility.* ***RE-PA-3***

A further illustration below reinforces the pricing of the investment and as well as its fit for purpose.

> *When we have reasonable doubt but even when you do it as a routine, […] but even when you do it as routine you should have reasonable doubt to question it. For example, that the price that you put (UMEME) for X, for this project, should maybe or we would not have expected it to be that high. So you are asking for the justification why that value is that high that is something that you've got to ask. There are instances where we red flag these. For example we do investment verification very year and there those instances where there will be submissions and there are some of them that you would reject that this investment is not fit for purposes. They could have said this is an investment but then from the perspective of the regulator it is not an investment therefore it is rejected.* ***RE-PA-3***

The above excerpts to general consideration and specific decisions made by the regulator and the private partner relating to investment and point to the conflictual and potentially conflictual nature of the relationship hinged on the differences of expectations and evidence of non-consensus on the parametric measures relating to investment.

Perceptions on the Sufficiency of Operator Targets and Penalties

The determination of targets and penalties and the perception of partners of their sufficiency is another area on which difficulty is grounded within the regulatory realm of partner relationship. In the rationalization for the involvement of private participation in the sector, improving the sector inefficiencies was one the driving factors. Inefficiencies at the time included high level of electricity losses arising from technical and commercial related failures. As one of the interviews noted:

> *Technical (losses) is of course technical especially caused by poor infrastructure; over loading then commercial losses is theft. So anywhere, but I think commercial losses were probably 20% the other one was 18%. But which means for every power we were generating you are only able to bill 62% and then of the 62% you bill only 75% of the people were paying. So the collection rate was about 75% so the other 25% were not paying. So, now you had poor access to power was 5-6% (of the population), losses were very high, the collections were very low.* ***RE-NA-4***

To ameliorate the inefficiencies, and as part of the private partner contracting process, government negotiated targets with the private operator. The evidence indicates that at the implementation phase there appeared to be a perception among public actors of the insufficiency of the agreed to targets for the private operator. As the quote below illustrates, at the time of target setting the circumstances appeared to make the targets sufficient and ambitious but with the passage of time there their perceived inadequacy arose.

> *Now what was bringing the technical losses was lack of investment because the lines were old the transformers were eroded so that is why you had technical losses. The commercial was still (caused by) the billing system was not efficient; even those (customers) you bill you do not collect. So that is the situation we were in. And those are the figures we had so when somebody comes (private partner) and you say in the first year we want you to collect from 75% atleast to 85% then in the next year we want you to move up to like 94%. If you give those targets for a period of 5 years you think you have really given tough targets with that kind of background, not so? Now if you say losses you are going to cut them from 35% I think in the first 5 years we wanted it to be around 26-27% that is quite substantial.* ***RE-NA-4***

The above quote indicates basis of determination of the targets at the time of procuring the private partner. These targets, with the passage of time, were deemed unambitious and suggestions that they were premised on inaccurate information available at the time as well as difficulty in predicting the sector performance. As a former employee of the operator similarly observed about some of the targets:

> *So in the first six or seven years there we targets on customer numbers which were not very ambitious. It was 60,000 or something in the first 7 years, it was very small so UMEME far exceeded. It actually far exceeded most of the regulatory targets. Either they set them too unambitiously or UMEME was able to surpass them. I think sitting in 2005 they could not really anticipate where the sector would be in the next 7 years so they were a bit cautious with the targets. They should have been more aggressive but then they first wanted to get the investor on board and demonstrate that the project is viable*.
> **RE-PA-8**

As the excerpts above illuminate, the need to address this perceived anomaly arose as the sense of inequity of the prevailing contract arrangement set in.

6.3.2: Regulatory Processes

Within the theme of regulation of the partnership, regulatory processes underlie and exemplify pertinent aspects of difficulty in the implementation phase of this Public Private partnership. As already noted, in an attempt to regulate for public interest, the regulator not only designs regulatory parameters but it also determines processes for ensuring the measurement of and ascertainment of compliance with the set parameters. It is in these processes that challenges emerge. The section highlights the primacy of two processes including investment verification and tariff determination.

Investment Approval and Verification

Establishing the efficacy of the investment appears important for partners because of direct impact that investments have on the tariff. As many interviewees acknowledge, as more investments are made, more pressure is placed on the tariff. In an attempt at moderating the potentially unsustainable tariff increase, the regulator devised pre-investment approval and post investment verification. Through these processes, the private operator investment plan requires approval prior to the investment and after the investment. Interviewees observe that these processes create regular contradictions and remain an important friction aspect. As the excerpt below illuminates:

> *[…] So now as you invest there is pressure on the price of the product which is power (electricity) but then the utility wants (to make) the investment to install prepayment meters, to install automatic meter reading to replace transformers and whatever else. So then you have a clash, there is political pressure on the regulator to bring down the tariffs but then especially from the utility (operator) to invest because their bottom line depends on investment. Most of the money is from the return on investment.* ***RE-PA-8***

With these contradicting priorities, the process of investment verification generate difficulty and partners involved use the process as a tool to extend their own distinctive aims. As the former director of technical regulation at the regulatory authority noted in the following excerpt:

> *[….] the regulator, is my view is (playing) cat and mouse, if there is a way to disallow the investment, whether or not it is made is another discussion, because they are preoccupied with this (the investment) is going to result in a very high tariff. That is why you sometimes hear UMEME saying we have invested some 500million USD since we came and the regulator is saying for us we know 405million dollars.* ***RE-IC-PA-5***

So while on the one hand the regulator urges for the investment verification as processes to ensure that the investment made by the private sector fit with the expectation of service provision, the evidence suggests that private sector partner views the same process as used to stifle their earning by disallowing or delaying the approval of investments made. In the excerpt below the private actor illustrates the effect of investment processes on the net earnings of the company:

> *[…] if you analyse our financials, do we actually get 20% return? Just get your PAT (Profit After Tax) divide by the total asset base or investments, we don't. Actually average is 12%, actually we dont earn it. We dont earn 20%. How do you earn 20% when some of your asset investments on which you are supposed to earn are not included in the tarriff?*
> ***PR-PA-1***

Relatedly, there appears to be no consensus or firm institutional framework to direct the investment verification process. For the early years of the concession, the verification process was sampled and the metrics for allowing and disallowing the investment to be charged on the tariff fully vested with the operator. To date all that exist are guidelines on investment verifications designed by the regulator using its licensing authority. A contention exists on the contradictory implication between the guidelines and the concession agreement on the recognition of assets. As the following excerpt exemplifies:

> *In developed utilities what they do they give you targets, possibly they also give you a price cap, then targets interms of service quality. The rest of the decisons, where to put the money is driven by the signals you see and your targets, period. But here, for example, they (regulator) will give you an energy losses target and the same person is the same one to say I will approve that investment for that loss or I will disapprove it. The same regulator, for example, will give you the target on service provisions but same regulator who will determine whether to buy a motor cycle or motror vehicle or not. You see the contradiction? And you have to dance around put the hands down put the legs*

down. Its really too too much. ***PR-PA-1***

The above quote demonstrates the contradictions that exist on the control of the not just the expectation but the input to the delivery of those expectations. Most critical in this regard is the discrepancy of authority over the determining the efficacy of investments made by the private partners.

Tariff setting

The second integral process in the theme of regulation of the partnership is the tariff setting. The determination of the price of electricity in the Uganda's case is vested in the Electricity Regulatory Authority. ERA has the responsibility to determine the pricing formula and to collate input that feed into the tariff. Tariff setting is also an aspect in which contradictory interdependencies manifests. The sector interdependences require that input from multiple players be considered yet is appears an activity that the regulator prefers exclusive decision making on for different reasons. The quote below from the senior economist in the regulatory authority depicted the limited confidence of the authority on involvement and capability of other partners:

> *Now, one of the main functions of the regulator, that is none-delegable function, is that of setting the price of electricity. Now because of that there is no leg room for us to second guess ourselves. Otherwise the alternative would have been that tomorrow we can actually adopt whatever UEDCL conducts and verifies. But the responsibility of determining a tariff remains with the regulator, number one. And number two is that the fact that the responsibility of determining the tariff is with the regulator then each of the inputs (in the tariff) is with the regulator. And the regulator is comfortable when those have been verified by themselves such that at point X should you come and ask why is it this high I will not say the number that I was given by UEDCL, but I would say after my verification of X I can tell you that the number is this and I was there on ABCD.* ***RE-PA-3***

As the quote above reveals, the regulator prefers taking full responsibility for the tariff as enshrined in the institutional framework by way of self-generating and considering the necessary inputs to the tariff. A consequence of this approach is the contradiction arising from limited involvement of partners whose operations will directly be impacted by any decisions made on the tariff. As the senior manager of UMEME observed about the occasional insufficiency of the tariff:

> *The regulator will be interested in low prices, will be interested inquality of service to customers, will be interested in us meeting their targets and regulatory compliance. Though we have delivered on all those mandates: loses, collections, operating efficiently, improving the service levels to customers, ofcourse we have regulatory challenges interms of either capital not approved or unpredictable behaviour or sometimes the prices are not sufficient because of the policy direction. You find that the prices are not cost reflective enough to deliver the service or investment levels that you may require. This is a capital hungry sector, if you have 23% of the households in Uganda accessing power and yeet you need to access the other 77%, you need to build substations you need to build lines, you need transformers.* ***PR-PA-1***

Besides the contradiction of interests between partners or main actors as depicted in the above excerpt, there is evidence of contention in regard to the inputs into the final tariff. As noted earlier, although the regulator is mandated to determine price for electricity, that determination is only possible after taking into consideration the sector value chain contributors. In this regard, the partners will input into the price decision, in essence will determine the price to a significant level. Agreeing on the input to feed into the tariff involves consideration of the operator plans, including investment and operations and maintenance costs, an avenue that generates contention.

6.3.3: Regulatory and Contractual Conflicts

Enactment and Reenactment of Regulatory Institutions appear to undermine the Contract

Other parametric changes that underlie the difficulty relates to regulator anchored amendments of the licenses and the enactment of guidelines that often are seen to be skewed to support or extend the interest of the public sector at the disadvantage of the private sector interests and undermine the pre agreed contractual clauses. The interview evidence points to these as some of the important grounds on which the regulator and the private operator often have disagreements and on occasions, some of the institutional changes also do not necessarily agree with the interests UEDCL. In the following excerpt, and interviewee illuminates some of the underlying character of the amendments and ensuing reaction and perceptions of partners:

> *[…] yeah (yes), with the political pressure to reduce the tariff then you quiz the investor. You amend the contract, you change the rules of the game, you see. You say this contract was poorly negotiated you amend so that is what UMEME is saying you guys change the rules of the game in the middle of the game. So that issue has remained contentious they even went to the tribunal then they settled but it is still a contentious issue.* ***RE-PA-8***

A similarly, regular anchored amendment on the removal of agreed contractual terms that also impact the public sector partner (UEDCL). As illustrated in the excerpt below, in an attempt to reduce the tariff, the regular determines changes that appear not to be agreeable to other parties to partnership or at least more disagreeable to one party.

> *Of course the other contentious issue was in bid to reduce the tariff UMEME removed the lease rentals to UEDCL which significantly reduced the budget for UEDCL so UMEME simply said here is the regulatory decision we are not paying this million dollars, so off the budget so I think that also affected them.* ***RE-PA-8***

Such regulatory actions inform of amendments and establishment of new set of institutions through new, and often non negotiated, guidelines that distort the balance of expectation as well as the approaches partners leading to discontent from those affected in undesirable way.

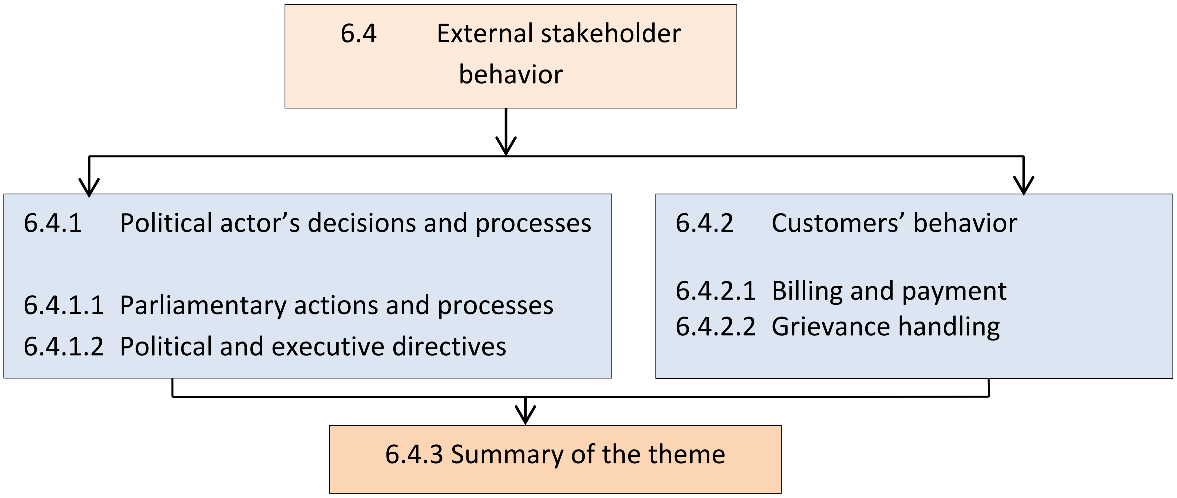
Theme summary

This theme has highlighted the primacy of parametric and procedural aspects as areas of contention in the regulation of partnerships. In particular it has demonstrated the frictional areas of investment measures, enactment of guidelines and standards, tariff setting and approvals and investment verification.

6.4: External Stakeholder Perceptions and Expectations

This is the third thematic challenge. The analysis of the evidence from implementation phase of this partnership reveals that the concession is impacted important friction events and issues relating to the perception and expectations of external stakeholders. External stakeholders in this study are regarded as individuals and or composite actors, outside of those bound by any contractual obligation to the concession, that are affected and affect the implementation of the electricity partnership. The analysis of interview evidence illuminates the primacy of the two external stakeholder groupings including the political actors and customers. The subsequent sections of this theme present and evidences important issues involving the interaction between those two categories of actors and the electricity distribution partnership. In particular, this section evidences that the divergences denoted by the nature of decisions and actions undertaken by stakeholders. This theme is structured as in the figure 6.5 below.

Figure 6. 5: Theme Structure: Relationship of Partnership Actors with External Stakeholders



Source: own work

6.4.1: Political Actor Interferences in the Partnership

The evidence indicates that political and politically motivated actions are important friction events during implementation the partnership. The divergences in political interests on one hand and the partnership interest on the other reflect the mainstay of conflict. In the context of this study, political actors denote individual or composite actors with legislative and executive authority for public management both at the local and national level. As a senior economist in the regulative organization precisely noted in an interview:

> *[……] part of the dynamic is managing the political environment in the operations while trying to abide by the regulations put in place by ERA.* ***RE-PA-3***

Similarly, in the following excerpt the former Executive Director of the regulatory authority reflected on an overarching influence of political interference on the agreed commitments in the concession:

> *I actually made it the main theme of last week's breakfast (meeting) to bring to the attention of people that one we should leave politics out of technical matters because if*

you go and read the UMEME agreement they have delivered on everything they said they would deliver. If your team was not competent enough to negotiate, you cannot blame them for it. And if they would have asked for more at year number five they did not tighten enough to ask for more. ***RE-NA-1***

Specifically, this study identifies two key aspects that manifest difficulty in the concession from a political stand point. These are parliamentary processes and individual political directives from the political leaders.

Parliamentary Processes

As already highlighted in the earlier chapters, parliament plays a significant role in legislation and in providing oversight to statutory authorities and state enterprises. The evidence suggests that in the execution of that mandate, parliamentary processes and actions tend to generate contention. Parliamentary led investigations and recommendations for the termination of the concession have been particularly evident over the last thirteen years since inception. There exist examples of parliamentary committee attempts to question and undermine important clauses in the concession agreements that they perceived are inequitable. The quote below illuminates how the committee of national parliament questioned a specific clause that provides safeguards to the private partner against risks of defaulting in payments by government agencies:

[…] the other day we were in parliament there was this issue under the UMEME concession. […]they envisoned that there will be risks where government fails to pay for their power bills. People like defense (ministry of defense), police, army, statehoue, you can not disconnect them. Yes there is a meter but you cannot disconnect them. So these guys crafted something (clause) in the agreement that says that in the event we (UMEME) bill these people (government agencies) and give them notice and 60 days lapse beore they pay we can automatically deduct that money from UETCL as we pay

them their dues then UETCL since its a government institution will liase with finance (ministry) to sort out that one. But you see now people look that and say that is a very bad clause, but look at the risks, this is an eminent risk. ***RE-PA-7***

As suggested in the above quote this is an important clause for the private sector as a safeguard from eminent risks. The manifest in this case is an attempt to rescind some of the agreed commitments.

There is also evidence suggesting bias against foreign owned companies. A Parliamentary attempt at ensuring that the concession is transferred from the foreign firms contracted to the local firms. As the former senior director of the privatization unit noted:

[..] and that's why I was telling you political and regulatory risk. But now regulatory risk had tremendously come down but political risk was very high. Parliament got involved with a lot of interest, people were given money to try and see whether we could not get some local companies to take up this concession […] that's where the problems began [..] ***PU-NA-8***

In addition, parliament has also instituted investigations into the partnership some of which are seen by the private operator as geared towards undermining the existing agreements and compromising the possibility of private sector gains. These distractive processes affect the smooth operation of the concession. As the quote below illuminates, the distraction interrupts routines and plans that are critical for continuous improvement of partnerships outcomes:

[….] in concessions or in PPPs you agree certain terms, one critical term that was agreed that okay we all do not know what the loss is lets operate for 5 years and in the 5th year lets study the losses or we would have done studies on the loses such that we adjust for that. What materialised is that after 4 and half years politics kicked in. Instead of following the agreement to look at how can we tighten through the agreement using technocrats who know what they are doing, we started saying kick them (UMEME) out they are taking alot of money and so on and so forth. And people (who) we were saying that, although in high offices, they did not know the magnitude of money that would have to be paid to kick them out. So when the numbers finally came to the table that this

is how much to pay, the timeline for negotiating and tightening the agreement had passed. ***RE-NA-1***

In addition to the above parliamentary behavior, actions and decisions of individual political actors is also another foundation for contention during the implementation of the concession.

Actions and Decisions of Individual Political Actors

Some of the actions manifest in the interviews is the tendency by individual political leaders to interfere with due routine processes and activities of the implementing partners of the distribution. At the level of institutions, individual political actors inference or attempts to interfere with important processes and decisions of the regulator, private operator and the public sector company UEDCL.

From the regulatory perspective, influence peddling by individual political actors is illuminated in attempts by individual actors to influence the tariff levels as well as in the appointment and dismissal of the regulatory staff. In this case, although the regulator is established as an independent body, its decisions are still subject to the alignment with government objectives and plans – an interconnection that impacts on the level of supposed independence as the following quote from one of the senior regulatory staff illuminates:

So you cannot be a regulator and be here and government says for me based on the national development program we are going for (increased) access and then for you you say no I am independent, me I am going for reliability, I am independent of government, no no no. You have to operate in consideration of the policies of government. If government says I am subsidizing electricity and here is the money, you as the regulator you cannot say no no we don't want subsidies, you just have to set a framework and say yes. (If) government says it wants to probably subsidize manufacturing, we will compute the shortfall and tell government yes this policy is good but for us to implement it we need 10billion shillings and wire it to such and such an entity. So you cannot claim that

that you operate independently completely. ***RE-PA-7***

Besides the general policy level influence denoted in the above quote, specific aspects of would be independent regulatory decisions are often interfered with. Some political leaders at the highest level of government make specific demands in bid to determine the tariff level. As the quote below denotes, the tariff reflects the contradictory interests of many stakeholders:

> *[…] there was need to set up an institution that is independent from the politicians that would make technical decisions and not political decisions and would try to balance the interests between government, the investors, and the consumers. The consumers want a low tariff the investor says I need to recover my return. The politicians say bring in capital investment and charge alow tariff.* ***RE-PA-7***

As some politicians seek political support, reduction of tariffs often gets used as a tool for political canvassing and promises are made that need to be delivered. Often the promises are made without due regard to the facts and subsequent attempts to deliver on the promises only meets a different reality.

From the private operator view point, contention is generated by political interference with the important commercial and technical decisions and processes. Commercially, the evidence suggests that individual political leaders get in the way of enforcement of compliance. One of the tools available to the operator to enforce compliance is the disconnection of supply. As necessary, the operator disconnects electricity supply to implore the customer to comply with the payment. It is in these kinds of decisions that those individual political leaders occasionally come in the way of the operator commercial decisions. The following excerpt from the operator staff illuminates this kind of interference:

> *That political pressure would go directly to the operator so ofcourse if you want to tell the district manager not to disconnect you have to tell the boss who would call and tell*

you that 'you know what you manage, manage,' So you find away of managing. So either you engage them and say you guys you have to tell them can you bring 5 million, so you would have to engage. Sometimes you end up engage political representative who is putting pressue like the Resident District Comissioners (RDCs), so you would have to engage the RDCs then the police structure because sometimes they can get violent when you are going to disconnect. ***RE-PA-8***

Similar instances of commercial interference by individuals in public authority, as the above quote illuminates, are observed by the interviewees in regard to commercial compliance involving government departments. This disruption of the commercial processes extends beyond the individual actors in politically elective positions to individuals leading in public institutions. In the latter, the evidence indicates commercial obstructions by leaders using both subtle and direct threats to the employees of the operator, as the two quotes below demonstrate:

[…] you have ministry of defense, Prisons, Police. Okay prisons and UPDF (Uganda Peoples Defense Forces), (for) those, power is critical for their installations, even police. If Luzira (Maximum prison) is out (of electricity), actually the Commissioner General asks, how do we have prisoners in darkness, and what do you do? One (prisoner) is looking for the other. Things like that. Then you have hospitals, you must have heard chaos that UMEME switched off power ten (10) people died. [….] at times I am told people have gone to disconnect (military) barracks and the commander cannot understand why you are switching them off because he doesn't pay power directly and (wonders) how do I get into darkness? He knows money should have been paid for power he then says (threatens) you get in (to disconnect) and see. ***PR-PA-3***

A similar observation from the member of the regulative authority further illuminates the nature of interference and the risks of commercial losses arising from obstruction of commercial processes:

[…] this is an eminent risk, defense (ministry of defense installations)! These guys dont even allow you to reach to disconect them. They will tell you like Luzira (Maximum prison) one time UMEME wanted to disconnect them they said people will escape from the maximum prison you will be liable, Mulago, you know people are being operated and you switch of power? You cant, your hands are tied.

The above illustrations depict the nature of commercial inference that emerges from individual actors in authority that creates contractions and interferences in the course of implementation.

Technically, individual actors occasionally attempt to influence the technical decision making and planning of operator in a number ways. Most evident in the conversations are attempts to influence the decisions related to connections and increased access. In this regard, individual actors attempt to influence or cause decision to connect electricity to locations that resonate with their political bases and will attempt to influence the institutions in that regard. In the excerpt below the Managing Director of the private operator depicts a frosty relationship with individual members of parliament:

We have had a frosty relationship with parliament - understable! understandable! why? The parliament represents 100% of the population and 77% of the popuation has no access to the grid, ofcourse they will be fighting for them. Unfortunately they will be looking at you because you are the face of the sector to reach all those guys as fast as you can, and they represent the interest of the masses. Now thats where we have had a frosty relationship. ***PR-PA-1***

Besides the friction aspects noted involving the regulator and the private operator, friction events and issues involving individual political actor and the public sector are abound. Most notably, is the push for some actors to advocate for the full takeover of the distribution mandate by UEDCL. The reports of parliamentary committees recommending the termination of the concession and for the UEDCL to take on the distribution have been abounding. An excerpt from the media story published following parliamentary committee meeting illuminates calls for UEDCL to terminate the concession:

> *Meeting officials from Uganda Electricity Distribution Company Ltd (UEDCL), MPs on the natural resources committee wondered whether government still needs Umeme's services. They asked UEDCL officials led by the managing director Joseph Katera to explain why the company's contract was never terminated after Parliament's recommendation in 2014. In 2014, MPs demanded that government cancels the concession agreement made UMEME and take on the supply of electricity to solve the problems of high tariffs. (New vision, 8th August 2016)*

In addition, the parliamentary committee meetings often appear to be a space in which political concerns over the performance of partnership appears to discussed and highlighted by the individual political leaders. As one of the members of parliament offered a portrayal of the fatigue that the population had developed with the private concessionaire, UMEME:

> *"Ugandans are tired of Umeme. The tariffs are high and we don't think it will come down very soon. Parliament I think should review the Company's contracts to establish how much they get in profits vis a vis what they pay government," Baryayanga said (New vision, 8th August 2016)*

The individual political actors by people in public authority attempting to or influencing the partnership through interference with the decisions and established processes at the concession level or at the individual partner's levels as depicted above.

6.4.2: Customers Perceptions and Expectations

On the other hand, customer behavior is one of the important aspect encompassing friction events in the partnership. Interaction with the customer is an integral part of the of the distribution partnership. Dynamic interdependencies are common in the relationship with the customer. The evidence from the interviews reveals two important issues in which the differences in the perceptions and expectations between the customers is predominant in the interaction. These aspects include the billing and payment and grievances handling.

Billing and Payment

One of the integral aspects that the interviews reveal relate to bills and the payment by customers. Within the scope of interaction with the external stakeholder, dealing with the billing and bill payment in concession raises a lot of contradiction for two main reasons. First, there appears to a perception that the customers are being exploited by the private operator through high tariffs. Although as noted earlier, it is not the role of the operator to determine tariff, its front end role as the vehicle for billing and collection of dues is associated with all the customer discomfort relating to the bills and bill payment. In a situation where tariff goes up and the bills increase, some customers depict this as a purely exploitative attempt by UMEME on the customers. As former senior employee of the regulative authority exemplified in the excerpt below:

> *[…] So power went through the roof because more than 50% was now thermal, people were saying now UMEME you see we told you (not to) privatize now you see what this private sector are doing. They are now exploiting Ugandans, actually the government had to pay subsidies but you privatize you are now paying subsidies now what was the purpose. But that was the situation but that money was not being taken by UMEME it was taken by the man who supplies the oil so again people look at UMEME because it is the one which interfaces with the customer.* ***RE-NA-4***

The above excerpt clearly points to the perceptions and expectations of consumer in relation to the electricity service but also in relation to the perception held on the provision of the public service through private sector partner. This contention also extends to impact the compliance attitudes of customers in regards to honoring the bills and making payment. In the excerpt below, an interviewee illuminates the customer's tendency for power theft and undermining of their payment obligation and how, by using political connections and influence, customer evade repercussions.

> *Then seriously the big lobby, the manufacturers, big customers who are really stealing power. I know one big aluminum and steel smelter he was stealing a lot of power (electricity), I can tell you people who were dealing with AGOA (African Growth and Opportunities Act), they were stealing power. A third of the power was not billed they tampered with their metering system. Those people can be vocal, they are vocal, they can attract the ear of the MPs (Members of Parliament) then they make it political. But who are there, this man of AGOA, was stealing power, […] when people (UMEME) went there and arrested (instead) them oh (that) they said they wanted a bribe (yet) they (AGOA) had organised police to arrest them that they wanted a bribe but it was not true. Then the minister said now you know these people are the President's favorites, but there was evidence.* ***RE-NA-4***

Besides the defaulting behavior of customers the interviewees also observe the customers tendencies to make claims on the high tariffs rate compared to tariffs in countries around the region and suggesting that electricity costs were stifling the companies' relative competitiveness in the region. As the quote below denotes:

> *[…] so manufacturers they were there when they tighten on them to pay for power they come and say power we cant compete, Kenya power is cheap, where we cannot compete in the market but when you and see what is the component of power in the production cost you find it was very small.* ***RE-NA-4***

Customer Grievances Management

In addition to the bill and payment aspects, management of grievance is an outstanding aspect that the interviewees observed as contentious. As a service provider, the partnership is mandated with ensuring that the service is delivered to the set standards. However contention in the partnership arises on the kind of issues that generate grievances among customers and the nature of actions that the customers adopt. On grievances, customers make inaccurate attribution on some aspect of discontent. The interview evidence indicates that some of the grievances arise from wrong attribution of responsibility to the private operator. As interviewee illustrates in the excerpt below, often since he operator interfaces with customer, the operator receives the blame on behalf of the entire sector:

> *[…] currently we see a lot of demand of electricity in the Bombo area as you drive through northern Uganda, but we do not have transmission capacity because for us (UMEME) we pick power (electricity) from the transmission company. The available capacity there now of 40MegaWatts can nolonger fullfil the demand by the customers there. The customers have a brunt on us because of the delayed investment decision by the transmission company (UETCL). So there transmission must respond to our signal of where we see the issues are. If you go to Tororo for example there serious issues there if you read yesterdays article (Newspaper). Whereas cement factories are put up, these are industrial customers they all want power, there is no transmission capacity or the transmission is not reliable in that area. So guess who they come for? They come for us, so all these things have to be well collaborated.* ***PR-PA-1***

The above excerpt denotes aspects that create contention as wrongful attribution of the responsibility. But as way of supporting the sector the distributor often accepts the responsibility even though the actual responsibility sometimes lies somewhere else in the value chain.

Relatedly, the nature of reaction of customers to discontentment is an area of contention. In the interviews, some interviewees noted that there is a tendency for customers to escalate issues and for some to become violent as the two excerpts below illuminate:

> *Then ofcourse the other key issue which kept coming, again my experience being in operations, was around customers escalating issues to the regulator. So we had millers (grain millers) who wanted a special tariff from the regulator which the regulator failed to give them. So they would they would lobby to all levels, presidents office, which would create pressure on us which end up making us miss the targets. So, you cannot disconnect, they have your money but you can disconnect because some of these lobby groups were politically connected.* ***RE-PA-8***

Besides the disruptive behavior denoted above, some customers also get violent in an attempt to evade paying the bills:

> *[…] you would have to engage the RDCs then the police structure because sometimes they can get violent when you are going to disconnect. Like in Mbale we have a big problem there have been disconnections and people are just hooking, and you know how investments get to such areas so you would have challenges because you are trying to recover a transformer and people are just hooking which is very unsafe.* ***RE-PA-8***

The above excerpts exemplify how grievances from customers and particularly inaccurate attribution of issues of discontentment among value chains actors and the reactions of customers create a conflictual atmosphere in the concession.

Theme summary

This theme has presented and evidenced the issues as they relate the external stakeholders. This theme has particularly focused on the manifestation of aspects relating to the behavior of some political actors and of some customers.

6.5: Chapter Summary

The chapter focused on presenting findings on the three identified thematic challenges in the distribution partnership. Three important themes that emerged from the analysis are presented including relationship among value chain actors, policy and regulatory arrangements, and the relationship with external stakeholders. Within the themes, specific aspects denoting difficulty have been presented and evidenced using excerpts from the interview data and documentary evidence. In particular, disagreements on responsibilities, actions of value chain partners, and oversight of the public sector partner are presented as important in the partner interaction theme. Specific issues relating to parametric changes and use of processes denoted friction in the theme of partnership regulation, while actions of individual and composite political actors and customers are evident in the theme external stakeholder behavior.

CHAPTER 7: THE POST CONTRACTUAL RESPONSE MECHANISMS

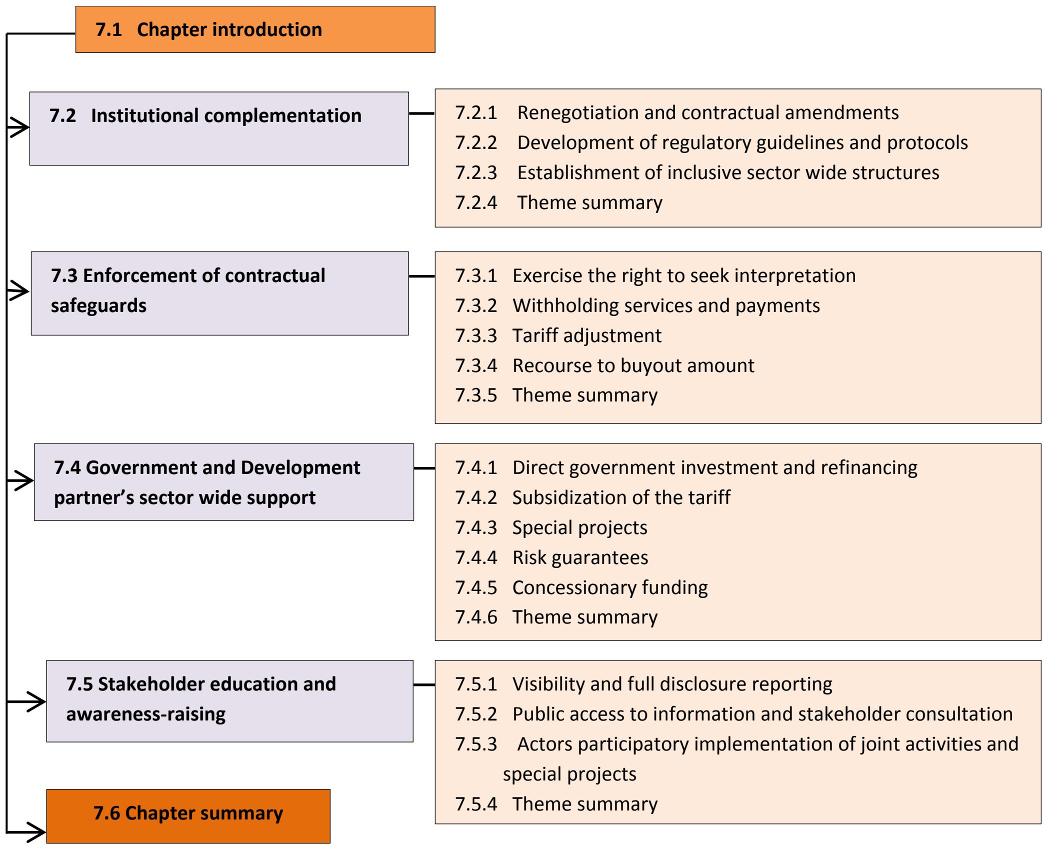
7.1: Introduction

This second findings chapter reports on the response mechanisms to governance challenges during the post contractual phase of the electricity distribution partnership in Uganda. In particular, the chapter focuses on sets of actions and decisions made by the actors in reaction to the identified challenges presented in the previous chapter. To delineate these responses, the analysis focused on the interviewees experiences of actual decisions made and actions undertaken rather than interviewee's opinions and perceptions of ideal courses of actions.

On the basis of the evidence, the chapter demonstrates that a wide range of responses are shaped by a high conflation of multiple considerations including; partnership project, sector, partner interests and the diversity of institutional sources of authority available to different actors.

The identified responses are categorized in four themes including institutional complementation, enforcement of contractual remedies, government and development partner's sector support and stakeholder education and awareness rising. The subsequent part of this chapter is structured in five sections. Each of the first four sections present and exemplify the different thematic dimensions of the category and conclude with the theme summary. Section five provides the chapter summary. The figure 7.1 below provides a further illustration of the chapter structure.

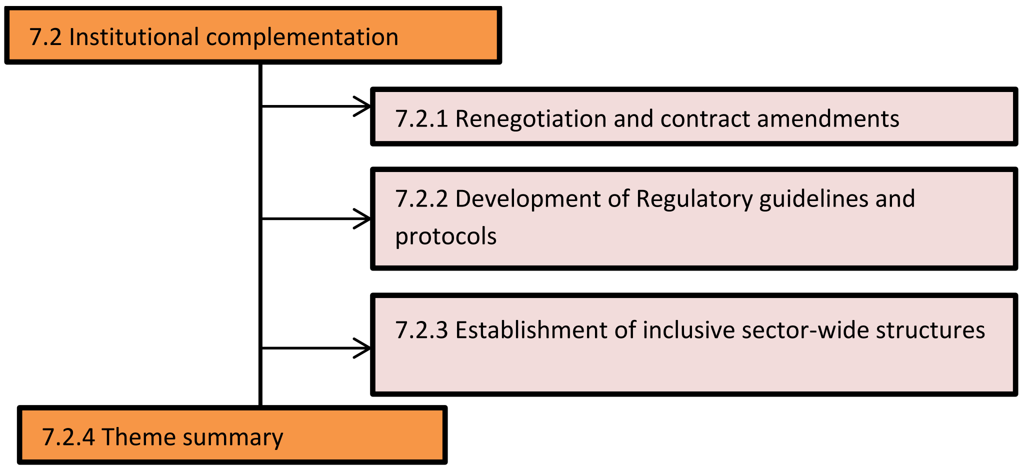
Figure 7. 1: Outline of the Second Findings Chapter



7.2: Institutional Complementation

As demonstrated in the earlier chapters of this study, different sets of formal rules exist to aid the implementation of the electricity distribution partnership. These rules are anchored in the institutional frameworks including the relevant sets of legislation, regulatory instruments and specific agreements executed. However, in the course of implementation the evidence suggests that changes to the existing institutional arrangement are used by actors as an important approach to respond to challenges that present in the partnership. In particular, the interview data points that changes are in institutions are developed and applied with the aim of either clarifying, adapting or reinforcing the existing institutions to the dynamic requirments. This study finds that changes to formal rules happen in three different ways including contractual renegotiations and amendments, development of new guidelines, and establishment of inclusive coordinating structures. Each of these is elaborated and exemplified below.

Figure 7. 2: Theme Structure: Institutional Complementation



7.2.1: Renegotiating and Amending the Existing Institutional Framework

Revisions and amendments to the institutional framework is one important way in which partners adapt to the challenges that the partnership faces in the course of implementation. Adjustments to the clauses in contract, licenses and law have been made to ensure the challenges are addressed. More specifically, the evidenced amendments to the contracts have been driven by the need to protect consumer interest, settle dispute between actors, and as restitution from unanticipated occurrences in the course of implementation. Firstly, as a consumer interest protection mechanism, the evidence indicates the regulatory authority in particular initiates changes to the existing institutions where the authority determines that the existing set of rules do not protect the interest of the consumer or that certain established rules pose a risk to those interests. In this regard, most of the amendments that have been made have focused on redressing the apparent consumer protection needs rather than anticipated risks to public interest. As the interviewee from the private operator observes in the excerpt below:

> **[..]** *there have been amendments that happen. These amendments are done by ERA because its largely to protect the consumers. UMEME is a private company, [so] we try as much as possible to provide the service but also to protect their return. ………[so] you must find some middle ground if there isn't to be chaos because UMEME will be saying, you see this is the agreement I have with the government, there are things like change in law that are provided for so if you change something different from how I found it, that means the terrain has changed. But on the other side the regulator is saying that yes that could be there but for how long can we leave in such a situation, can't we amend so that we can[move].. And the electricity act provides for amendment of license by the regulator but on the other side we have the government saying come I give you the due protection. So at times those amendments once they have a financial implication they become a little bit touchy.* ***PR-PA-3***

But as the quote illustrates, the amendments to the existing institutional framework also risk altering the balance of interests between the different operating actors. This then requires that any amendments need to be negotiated in order not to disadvantage one party in the course of the operation.

Secondly, renegotiating and amending the existing institutional framework emerge, in themselves, as outcomes of dispute settlement between actors. The evidence suggests that in situations where a dispute has been identified in the course of implementation, renegotiating and amending the existing set of rules has emerged as the adequate solution. As the interviewee noted in the excerpt below, in some situations, addressing a disagreement for example, arising from a license of operations, requires making amendments to the same license.

> *For example we had a dispute of our license and we were able to sit down and agree, we modified it, it is not yet complete, it is going to go through another mediation until we reach that point where we believe that both parties address the core of dissonance without compromising the public's or the customers interests.* ***PR-PA-2***

Lastly, revisions to contractual clauses have been used as a tool to respond to unanticipated situations by both parties that potentially and actually affect the operations of the partnership. This is most prominently the case in situations where risk of a particular occurrence is shared risks among partners. As one interview noted in the excerpt below, amendments of the contract clauses was used to remedy losses suffered as result of exogenous circumstances:

> *I recall there was a drought I think 2006 -7 which necessitated the revision of some of those clauses because I think there was a minimum amount of power which UETCL was supposed to sell to UMEME and because of the drought they could not sell that power. So I remember there was something around revision of that -those special contract provisions.* ***RE-PA-8***

Other notable revisions to the existing institutional framework have been occasioned in the form of revision of targets and changes in the parameters of assessment for the partnership. The modification of the license to revise a number of clauses us on tariff methodology, provision for verification of investments as well as reporting guidelines are some of the examples.

7.2.2: Development of New Regulatory Guidelines and Standards

Besides renegotiating and amending the existing institutional frameworks, complementation of institutions has involved actors enacting new guidelines and standards to steer the implementation phase. This study has revealed that new guidelines are developed to fill in the gaps in existing rules that emerge in the course of implementation. The development of these guidelines most aligns with the themes of difficulty as reported in the previous chapter but more specifically point to three aspects. First, that the aspects on which the necessity was guidelines were identified are some of the challenging areas during implementation. Secondly, the development of the guidelines could also suggest that the dynamics of implementation could not be accurately anticipated and provided for during the development process of the existing set of rules. Thirdly, the guidelines could also suggest that these are areas in which partners and other stakeholder interests consistently contradict.

In particular, certain aspects are consistently evidenced in the interview data as areas in which guidelines have been developed in the course of implementation of this partnership and these include, investment verification with the development of investment approval and verification guidelines, bulk metering with the development of bulk metering guidelines, tariff setting with development of tariff guidelines, as well as introduction of reward and penalties.

As a complementation of the existing set of rules, the investment approval and verification guidelines were developed by the Electricity Regulatory Authority. The aim of the guidelines is to ensure the prudence and reasonableness of capital investment costs allowed in the tariff so as to enable the regulatory authority to balance the interests of all stakeholders in the sector, in particular, licensees, the Government of Uganda and consumers. As the excerpt further illustrates, the investment verifications guidelines were designed as part of an audit process for purposes of full and accurate disclosure:

> *[…] when you are managing an institution there are so many audits that come around, ideally asset verification is an audit so we wanted to do it so we designed verification guidelines that we are following and we follow but we make sure that for any verification for asset addition we go by 100% especially [specifically] when it comes to that category of big monies [investments].* ***PU-PR-PU-PA-12***

The above quote highlights both the importance attached to verification of the assets but also reveals the implied contradictions in regard to high value investments or investments of high significance.

In practice, some interviewees posited that the development of the investment guidelines also works to remedy the risks to the investments of the private partners as well as a hedge against any unpredictable behavior of the regulatory authority. As the excerpt below illuminates, the guidelines create a sense of certainty, clarity and reduce risks in the processes where the existing institutional frameworks do not:

> *Now, what has happened [is that] the regulator, and again these are some of the things, in the past the investment verification was not streamlined but lately they have improved and have gone ahead to issue what they call investment guidelines so that it reduces on the risk from both sides. From UMEME side undertaking an investment that would eventually be disallowed and on the other hand also the regulator is not seen as regulatory risk so they have tried to bring down that risk by having a meeting of minds that they do not start something that has not gone through the due process of approval by the regulator.* ***RE-IC-PA-5***

Further, interviewees also noted the critical importance of investment verification in enabling the reconciliation of expectations especially in terms of investment, tariff setting and quality standards. As the quote below from one of the interviewees of the private operator illuminates, the process of investment verification render value in protecting private and public interests:

> *They (ERA) introduced investment verification so they have to verify investment before they are allowed into the tariff. On our side we saying it is okay, we need to invest a handful, more than 20 million dollars per annum, you step back to sixty. So that way we find a balancing, a win-win scenario whereby we are able to supply power efficiently. The good quality and reliable, consistent with what the customer wants but also in the end ERA is able to regulate the price and make it fairly affordable to the customer.* ***PR-PA-2***

In addition, bulk metering guidelines were set up to guide the billing process. The Bulk metering guidelines were developed for two reasons (a) to provide a framework for implementation of bulk metering by all companies licensed by Electricity Regulatory Authority (ERA) to carry out electricity distribution business and (b) to ensure protection of all stakeholders involved in distribution, supply and use of electricity in Uganda. As the excerpt below illuminates, there was a need to establish a standard interaction protocol that would help reduce the tension between the operator and some sections of customers by providing clarity and transparency in the processes of billing.

> *But then to manage some of those we ended up working with the regulator, for instance we were able to work with the regulator to put in place something called bulk metering guidelines. Because of the losses targets there were complaints and they were escalating them to the regulator so in response the regulator said no we must address, we realize that you are trying to address the losses but the way you are doing it you are aggressive*

(to the customers) you are not engaging so they put in guidelines which we were then required to follow. ***RE-PA-8***

In other words, the guidelines are set out to moderate the nature of interaction between the stakeholder as it relates to the billing processes.

Besides the investment verification and bulk metering, tariff setting guidelines have also been developed. Like the other guidelines, the tariff setting guidelines are developed by the regulatory authority to display the process and methodology for tariff setting in the Ugandan electricity sector. The purpose of the guideline is to enhance the public understanding of the tariff setting process and clarify the objectives and procedures for setting electricity tariffs.

Finally, the interview data also points to introduction of quality of service standards. The quality of service standards developed by the regulatory authority is aimed at protecting the interests of the consumers. The developed standards cover the areas of access to electricity supply, reliability of supply and customer. It is further hoped that the penalty and reward mechanisms will be attached to these standards in order to further incentivise better performance of the private actor. As the interviewee from the regulatory authority noted:

But also for them to be more efficient, we want to introduce a reward penalty mechanism on efficiency targets, like reliability for instance, like customer connection. Because you see the previous metrics had numbers, losses, collections which directly affect the bottom line but we need move and see that the customer gets a good quality service. We also need to introduce the target on new connections basically to meet the government agenda of access. ***RE-PA-8***

Although these sets of guidelines are none binding and are targeted at a broad array of licensees in the sector, the interviews reveal that they are operational and shape the decisions and actions of the distribution partnership as they do for other applicable actors in the industry

7.2.3: Establishment of Inclusive Sector Wide Coordinating Structures

As noted in the preceding chapters the high interdependences in the sector imply that the decisions and actions of any of the value chain actors have an effect on the functioning of the others including on partners in the distribution concession. In other words any, changes in the decision of any of the value chain partners alter important aspects of the distribution partnership thus requiring alignment of various actors both in and outside the direct value chain of electricity distribution and supply. To that end, the interviewee evidence indicates attempts in which actors work to align at a sector level by creating inclusive structures that serve to coordinate decisions, interests and actions of the interested parties.

These structures are not provided for in the partnership existing institutional framework but have been found necessary to complement the existing institutions. Some of the important structures that have sofar been created to coordinate the actions at the industry yet not explicitly provided for in the partnership agreement include: the grid committee, intersector institutional review committee, integrated sector planning committee, sector working group, system planning committee. These are elaborated and exemplified below.

The grid code committee

The Uganda grid code is established to provide guidelines and procedures for the licensees to operate the Uganda power system. The code is overseen by committee whose membership includes representation from electricity generators, transmission, distribution and other interest groups. The general purpose of the code is to provide rules and procedures for the efficient management of the electricity supply industry in Uganda, taking into account a wide range of operational conditions that are likely to be encountered under normal and exceptional circumstances. This purpose is however only complementary to the existing contracts as the excerpt from the grid code articulates:

> *It is recognised that prior to the introduction of this Code, generation licensees have concluded Power Purchase Agreements (PPA) that may be at variance with provisions of this Code. Nothing contained in this Code is intended to modify the parties' rights and obligations under the PPA. In the event of any conflict, the PPA shall take precedence only to the extent that it does not affect the security and safety provisions specified in this Code. [**The Uganda Grid code, p11**]*

The complementary nature of the structure is explicit. The code committee is responsible for overseeing the implementation and makes suggestions to the Electricity Regulatory Authority on any necessary amendments to the code. Most significantly, the inclusive nature of the committee set-up also serves a space to reconcile divergences that arise and affect the functioning of partnership. As an interviewee from the regulatory authority noted:

> *I know there are also other things, like they have a grid code committee, where we have ERA representation. So all the major players are in the room and they are considering which are the major lines coming on board, what is the demand projection, things like that. Where they can agree on a high level on what are the key interventions required and those are usually hosted by the minister so different players working together. **RE-PA-8***

In this regard, it is possible to infer mutual accountability on both processes and actions among the participating actors and equally infer the harmonization of actions of much wider impact on the functioning of the sector and on the services offered by the different value chain partners.

Sector working Group

The sector working group is also one of the multi actor inclusive structures that has been developed to coordinate the sector wide interventions of different players and to harmonize the different expectations and courses of action. Precisely, the sector working group brings together all agencies, development partners and the government to discuss the various activities that are undertaken from different perspectives. As one interviewee observed, this committee deliberates on issues that transcend any one of the actors in the sector yet have implications on all of them.

> *[..]we've had that discussion on the tariff and said how do we manage this tariff downwards, there are certain interventions, building demand, its actually an inter-sector institution review committee that's looking at what is the demand trajectory like, how can we stimulate more demand[….]. Right now they are discussing how to refinance the biggest dam, the Bujagali dam, how do we extend the concession period, the term of the concession, so that we bring down the cost recoverable per annum and that discussion I think is complete, it is going to save the customer may be up to, in my computation may be up to three cents per kilo watt hour, down words. So there is a lot of balancing and aligning.* ***PR-PA-2***

As observed in the quote, the committee addresses challenging issues both proactively and reactively in the interest of the sector. Similarly the sector level collaboration facilitates to ensure transparency in the sector wide operation and complementation of the capacities of the various actors. As on director in UMEME noted:

> *[…] what we did was we moved towards integrated sector planning. So previously we (UMEME) would run our investment without transmission (UETCL) so what we said no let us sit on the same table. So that we there, there is the regulator, UEDCL, Transmission, there is REA here, there is Finance (ministry), there is energy (ministry) there. Okay we need to do this project, why is it important because it will connect transmission from here to there. If we do not connect what will happen? Therefore transmission asset will remain idle and you will pay for it and we cannot serve these customers. Transmission do you have the money to do it, no. UEDCL do you have the money, Government do you have the money, no no . OK fine UMEME do it. So we have seen through that collaboration most of the things are being done and there is total transparency on who is doing what.* ***PR-PA-1***

System Planning and Coordination committee

Moreover, there is the system planning and coordination committee. This hierarchy-free structure considers investment plans and priorities and reconciles the agendas of the participating actors in the sector. In reconciling the different agendas, the committee evaluates the options from the various actors and reaches consensus on the best course of action. As the quote below illuminates:

> *For example, as a planner we have a space called the system planning coordination committee, which I chair. The system planning and coordination committee sits and we literally throw out who is the regulator who is this, and we are sitting down to look at the technical aspects of the network. So we have that. Then we have... committee at that point we no longer know who is a regulator, who is a licensee and it is the technical discussion of these aspects to see how we can move forward on these aspects.* ***RE-PA-3***

Similarly, on integrated planning, the committee reconciles plans, including investment plans, of all the sector actors and reaches a decision on the best option (or mix of options) for implementation that is effective and efficient as well as optmises benefit for all actors involved. As the interviewee responsible for planning at the regulatory authority puts it in the excerpt:

> *There are instances where everybody thinks of what they are doing is right and if you looked at it in its own isolation, its (indeed) right but if you integrate it with other plans its either the activity is going to be undertaken at the wrong time or given what the investment of x and y (other actors) is going to be maybe it is not even necessary to even invest there. Or given this you could actually compliment by investing in the next activity or if you combine this maybe it is going to create collision in the network or for example we are going to visit certain place x alone then you can a make a benefit if you went to place this infrastructure in a place where all of us can pick power from. Things like that.* ***RE-PA-3***

The above excerpt illuminated the sector planning and coordination committee capability to facilitate integrated planning and sector wide alignment of actor priorities. This in essence could provide space for managing disputes but also enables the sector to be self-accountable and transparent.

Theme summary

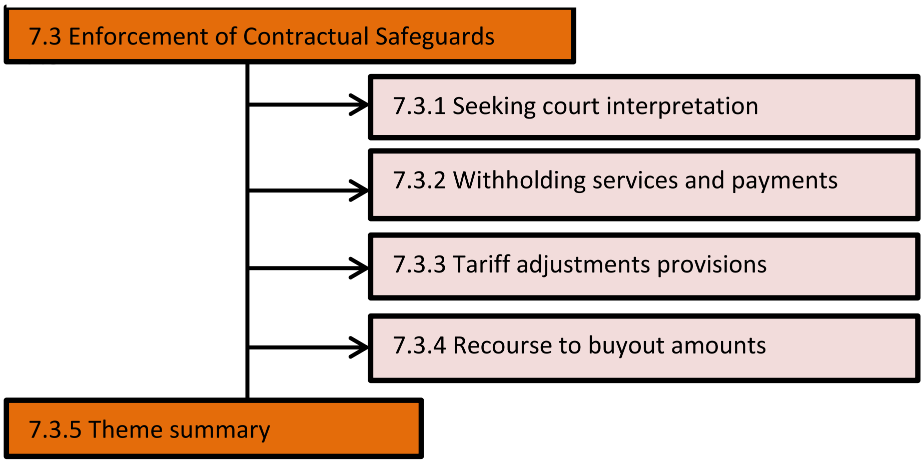
In this theme, three important domains of responses that relate to actors enactment or reenactment of formal rules and structures as complements to the already agreed and operational set of rules for the partnership have been presented. These mechanisms include renegotiation and amendment of existing institutional frameworks, development of new regulatory guidelines and standards, and establishment of multi-actor inclusive structures. These have been illuminated using both interview and documentary evidence.

7.3: Enforcement of Contractual Safeguards

As previously detailed, the electricity distribution partnership in Uganda is anchored on mutual commitments made by parties in the different sets of agreements. I particular the lease and assignment and the distribution support agreements. These two agreements are the main contractual instruments on which the partnership was developed and the implementation anchored. Specifically, documents inscribe responsibilities and obligations on public and private parties to ensure compliance and achievement of the agreed partnership objectives. The agreements also establish safeguards to protect both parties to the partnership. In other words, the agreements prescribe responses to challenges that emerge during the implementation phase of the concession.

Although due acknowledgment is given to the inherent incapability of the contracts to make precise predictions of the future, specific safeguards for contracting parties are provided for. This section illuminates how partners use the available contractual safeguards to respond to specific challenges that emerge. The safeguards identified and presented in this theme include the right to seek court interpretation, right to withhold services and payment to government, tariff adjustments provisions, and recourse to buyout amounts.

Figure 7. 3: Theme structure: Enforcement of Contractual Safeguards



7.3.1: Parties Right to Seek Interpretation

In the course of the operations, misinterpretation often occurs between parties on a number of aspects of the partnership. As detailed in the previous chapter, differences in interpretation arise in a number of issues and for different reasons. To remedy this, the contract provides partners a right to seek interpretation. In particular, the support agreement between the government of Uganda and the UMEME provides for the establishment of the tribunal. Section 4.12 of the distribution support agreement states that:

> *GOU of shall use reasonable efforts to cause the establishment of the tribunal before the end of the initial period; provided, however, that the Tribunal not being established by the end of the initial period shall in no event constitute a breach by the GOU of this agreement.* ***Distribution support agreement***

The responsibility of the Tribunal is to independently adjudicate on some of the disagreements involving differences in the parties' interpretation. As a remedial tool available to parties, and as interview evidence indicates, some disagreements have already been referred to the tribunal. Similarly, some interviewees noted the intention partners to seek interpretation later if the outstanding issues remained unresolved. One of the most significant aspects of divergent interpretation involving the actors in the partnership, as already noted in the previous chapter, is on the differences in the value of investments made by UMEME. The decision by the regulatory authority to disallow some investments made by UMEME from earning returns is of particular concern. This disagreement is attributed to differences in interpretation as an interviewee observed in the quote below:

> *Actually if you ask that, the guidelines are there, the contract is very clear, interms of what makes CAPEX (Capital expenditure). For example, financing costs will not be part of, [yet] if you read the license it is very clear, CAPEX includes financing costs during construction. […] even IFRS (International Finance Reporting Standards) accounting standards will say that any financing cost you incur during the construction of an asset forms part of the valuation of the asset. Any resources you deploy directly to the project, dedicated to the project forms part of the capital investment. Any relevant overheads that are attributable to the project form part of your capital investment. I have never seen in the world were your capital investment [only] equals to the equipment cost, Jesus Christ! [That] the valuation of a meter is equivalent to capital cost? What about the import duties that is not recoverable? What about the financing cost? What about the human cost of putting the meter up? What about the transport cost of putting the meter up? […] some of those things are just misinterpretation all I do is exercise my right I go for interpretation and straight away the number will be in.* ***PR-PA-1***

As expressed above, seeking an independent interpretation would address the impasse and the intention to seek such an independent interpretation at later time in the partnership is apparent. However, while seeking interpretation is a remedial action available to both parties, some interviewees observed that the recourse to interdependent adjudication sometimes negatively impact on the future relationship between parties. As one of the interviewees suggested in the excerpt below, as a precaution against creating a hostile relationship once one party loses, the parties agreed to an out of court settlement on a disagreement that arose from amendments to the licenses by the regulator that UMEME was not in agreement with:

> *[..] UMEME went to court every time but I think after discussions behind the court's back it was agreed that this is settled outside the court because whatever decision will be taken the other party will be aggrieved. If it is the regulator losing the case, it's (it will say) how, let me wait for you? If its UMEME it will say the regulator is not fair, things like that so the neutral ground was yes, compute the amount, re-invest it in the sector to grow demand but you are not earning the return. So that is, there was some intervention to government through energy and finance to calm down the sector.* ***PR-PA-3***

Similarly, the preference of amicable resolution of conflict was encouraged as opposed to seeking court determinatins. As the former permanent secretary of the energy ministry observed

> *On my part what I normally did though because I did not like the idea of this UMEME this Regulator are busy in court. If for example the tribunal decides that UMEME you are right that erodes the credibility of the Regulator, if on the other hand the Regulator wins this investor will feel very much offended and that creates an environment which is no go area. An there is something which I handled it must have been 2015 or so again a dispute like that I said okay why don't we sit down. Its good if you are not seeing eye to eye then the tribunal can come and put you in court and determine. But if you are seeing eye to eye there is nothing wrong talking through the issue and personally as Permanent Secretary I encouraged them and we solved many of those issues.* ***PU-NA-3***

It is evident, though, that only the private sector partner has made an attempt to utilise the option to seek interpretation on some pertinent challenges in the course of the operation. Despite that, it appears from the evidence that although the actors utilise their right to seek interpretation the options to avoid potential backlash undermines the essence and spirit of the utilizing the option and thus making choices for out of court settlements.

7.3.2: Withholding Services and Payments

The provisions of the distribution support agreement permit UMEME, in particular, to withhold services through service disconnection and to withhold payment due to the UETCL in the event of noncompliance with responsibilities and obligations. The two excerpts from taken section 4.3 (c and d) specifically affirm this right to the private entity as well as the commitment of the Government of Uganda to provide reasonable assistance to the UMEME in that regard.

> *GOU of will support and firm the company's right to deal with late paying customers (including a right of disconnection) in a manner permitted by the laws of Uganda, including the electricity Act 1999 and regulations made their under* ***(Section 4.3(c) of the distribution support agreement)***

The subsequent clause in the agreement reinforces the right and states:

> *GOU of will provide reasonable assistance where circumstances reasonably require to the company's legally permitted efforts to disconnect persons who are connected illegally and late paying customers (including GOU or GOU entities).* ***(Section 4.3(d) of the distribution support agreement).***

In light of the above contractual safeguards, the interview evidence shows that the private operator utilizes withholding of the service through disconnection of defaulting customers including the government of Uganda and or semi-government entities. In the quote below, an interviewee explains the basis and the practice of withholding payments to the government entity UETCL as remedy for defaulting in payment of the electricity bills by the government entity.

One of the (available) solutions is to hold (withhold) UETCL's money. That is provided for (in the support) then we say UETCL look here UPDF (Uganda Peoples Defence Forces) hasn't paid this month, this is the agreement so we are not paying (you). Then ERA is going to write release that money all those kind of things and at the end of the day you find that finance (Ministry of Finance) comes in. UETCL is in a short fall because we held their money in most cases finance will say, let me look around for some money, supplementary budget say give to UPDF to pay UMEME so that UMEME can release. ***PR-PA-3***

Relatedly, to protect the partnership from commercial losses by preventing over accumulation of unpaid bills, services are occasionally disconnected to private and public customers. Although this is a contractually established safeguard, enforcement often faces opposition customers. Among the private customers, the evidence indicates that high volume industrial consumers are a bigger challenge to the operator while entities providing critical public services and infrastructure appear to present more difficulty among public customers. As one interviewee explained in the following quote;

[..] So we had (grain) millers who wanted a special tariff from the regulator which the regulator failed to give them so they would come they would lobby to all levels, presidents office which would create pressure on us which end up again would making us miss the targets. So you cannot disconnect, they have your money but you can disconnect because some of these lobby groups were politically connected.

The above excerpt illustrates the application of the safeguard and simultaneously demonstrates an apparent enforcement challenge. Specifically, the above excerpt illuminates how particular influential actors use their authority to undermine the very reason for the provision. In some instances the disconnection safeguard is rendered effectively inapplicable through abuse of state instruments of coercion or by making direct threats to service provider's enforcement personnel, ss the excerpts below illuminate:

> *[….] Then you have hospitals, you must have had chaos (that) UMEME switched off power (and) ten (10) people died. So you wouldn't want to put your weight so much without government assistance, at times I am told people have gone to disconnect barracks and the (military) commander can't understand why, (and dares) come and switch us off. Because he doesn't pay power directly you are coming to switch him off, off power (and) he says how do I get into darkness? He knows money should have been paid for power he says then you get in and see.* ***PR-PA-3***

With these safeguards undermined, operator relies on the alternative contractual remedy which is to withhold payments for the purchase of electricity from the transmission company.

> *One of the (available) solutions is to hold (withhold) UETCL's money. That is provided for (in the support) then we say UETCL look here UPDF (Uganda Peoples Defence Forces) hasn't paid this month, this is the agreement so we are not paying (you). Then ERA is going to write release that money all those kind of things and at the end of the day you find that finance (Ministry of Finance) comes in. UETCL is in a short fall because we held their money in most cases finance will say, let me look around for some money, supplementary budget say give to UPDF to pay UMEME so that UMEME can release.* ***PR-PA-3***

Despite the limitations on the applicability, withholding services to consumers and payments to the transmission company are both responses and safeguards that accrue from the contractual commitments. That notwithstanding, the evidence suggests that the applicability and effectiveness of these options to remedy challenges depends on the extent of respect accorded to the provisions of the contract by both public and private customers.

7.3.3: Tariff Adjustment and Recourse to the Buyout

In addition to seeking interpretation and withholding services and payments, the evidence shows recourse to tariff adjustment and buyout amounts as other response mechanisms. In regard to remedy through tariff adjustment, it is evident that the tariff and its determination process are important aspects in the management of the partnership. First, the determination process of the unit cost critically requires collating all value chain costs from generation, transmission to distribution. Arising from this process, a tariff therefore becomes a central point of interest for many actors and other stakeholders which making the process remedial but also complex. The contention generated in the process of tariff setting is already noted in the preceding chapters.

As a remedy, the institutional framework places the responsibility of fair tariff setting on the regulatory authority. In execution of this mandate, the authority is obliged to determine a fair tariff that is exploitative to consumer and the same time that can enable the investor to generate a return on the investment. This is delicate balance to find as the interviewee at the regulatory authority observed:

> *So, there was need to set up an institution that is independent from the politicians that would make technical decisions and not political decisions and would try to balance the interests between government the investors and the consumers. The consumers want a low tariff the investor says I need to recover my return.The politicians say bring in capital investment and charge alow tariff. So that kind of balance we needed an independent institution that can make a decision that is technical but may not be very popular withall the parties invloved.*

The above illustration not only displays the intricacies involved in the process of tariff management, it also reflects the centrality of the tariff as a safeguard to the expectations of the actors directly involved in the partnership and other stakeholders directly and indirectly affected. Specifically, the changes in the tariff are a direct reflection of the diverse considerations of partners and stakeholder interests.

Secondly, having considered the remedial nature of the process of tariff setting, the actual tariff set is equally important. For example, in this case study where there is significantly reduced government subsidization of the cost of electricity, the tariff is set to ensure that it is capable of recovering costs including the investor’s earnings. Placing a tariff where it needs to be rather than where stakeholders, especially customers, wish it to be is remedial especially in regard for cost recovery but calls for independence. As an interviewee noted, an independent body other than the government setting the tariff becomes pertinent:

> *Government may not like it but it sets some kind of assurance or kind of mitigate the risk interms of the tariff, if the tariff is not recovering the costs. Will there be an independent party that can determine the tariff and says I am increasing the tariff if when the president (President of the country) is on a campaign rally saying that the trariffs are going to go down? The ministry will not do that so that's way the ERA was established. We are not part of government, yes we politically report to the ministry of energy but we make our own decisions in respect to tariff setting, approving standards, passing regulations.*

So, the tariff setting process provides an avenue for streamlining the partner’s expectations while the set tariff level ensures cost recovery necessary to sustain the operations of multiple value chain customers. Specifically, in the process of approving the cost of investment recoverable on the tariff, the evidence suggests that a remedial opportunity is presented as actors discuss and streamline any disagreements. In some instances, these disagreements have led to complementation of existing institutions, as noted earlier section, like developing of guidelines which have provided subsequent clarity on the management of the partnership.

Moreover, recourse to the buyout amount is also an evidenced response mechanism related to the enforcement of the contractual safeguards. Although it is early to determine the efficacy of the buyout as a response before the partnership reaches the terminal phase, in light of the apparent disagreements on the value of investment and the regulator's decision not to recognise some expenses as investment, some actors have suggested recourse to the buyout amount. A provision in the distribution support agreement makes an explicit statement in this regard:

> *Upon the natural termination of the agreement, the Buy Out Amount shall equal 105 percent of the cost of the modification that is undepreciated and unrecovered by the company through the tariff under the licenses as of the date of the retransfer.* ***Section 12.1(d) Distribution support agreement.***

In essence, at the end of the partnership any investments made by the company but not yet recovered through the tariff can be claimed at termination. Although the investment will not have the agreed return earned, this provides a terminal safeguard for any investments to be recovered. The interviewee quote illustrates the nature of expectation in regard to the ability of the private investor to recoup the disallowed investments at the terminal phase of the partnership:

But also ultimately in terms of investments, for example, we have recourse to buyout amount. Say we do not recoup this money through the tariff, we can maybe keep it long term and say we shall re-coup it at the point of buyout amount. ***PR-PA-2***

The excerpt, first, illustrates a futuristic response that ideally buffers the private company against any risk of complete loss of the investment in the event that the investment are not recouped through the tariff immediately or in the near future. Second, the possibility of recouping through buyout could also suggest a more risk taking behavior on making investments without prior approval that undermines the control on investment decision of the regulatory authority. In fact this risk taking behavior is already evidenced in the some investment decisions of the private operator. For instance, save for emergency instances, there are instances in which the private operator makes the investment without prior approval from the regulator as required by the investment guidelines. As this excerpt illuminates, the operator occasionally fails in this procedural compliance responsibility or neglects due process of seeking approval:

But you see yes emergencies happen, I (ERA) appoved the plan for the whole year, in March you had an emergency, you didnt tell me, you went and installed, and kept quiet, December reaches ends, you close now time reaches to verify you tell me oh it was an emergency it happened in March. Atleast even if you are this side you will be saying the whole approval process losses meaning, I mean why did you bring this plan for me to approve it in the first place if you have so much flexibillity to change it with impunity. So that is it but they will tell you there side of the story.

Two remedial options of tariff adjustment and recourse to the buyout amount illustrate how actors respond to particular challenges that emerge. As evidenced, there is a connection between the two mechanisms with one acting as a safeguard for failure in the other. In other words if ERA does not recognise the expense as an investment, so that it can be recovered through the in the tariff, UMEME can wait to recoup that expense at the terminal phase. In essence, the recourse to buyout is a more useful tool to the private partners to mitigate complete loss but at the same time buffers the regulator from allowing into the tariff a cost they do not believe amount to an investment and does not generate expected value for the public.

Similarly, adjustment to tariff as recourse utilized as a solution both by the private and public sector actors. For the private operator, adjustment to the tariff enables full cost recovery and return to be earned on additional investment and on the other hand it provides the regulator with an opportunity to undertake prior determination of expected value addition from any investment before cost inclusion to the tariff.

Theme summary

This theme has addressed the enforcement of contractual safeguards. It has specifically identified and exemplified how the actors have called to use particular provisions in the agreements signed. These provisions include exercising the right to seek interpretation, withholding services and payments, tariff adjustment and recourse to buyout amount. The theme has also demonstrated that the above safeguards have so far only been called to use where the private operator has noticed or perceived risk to self-interest.

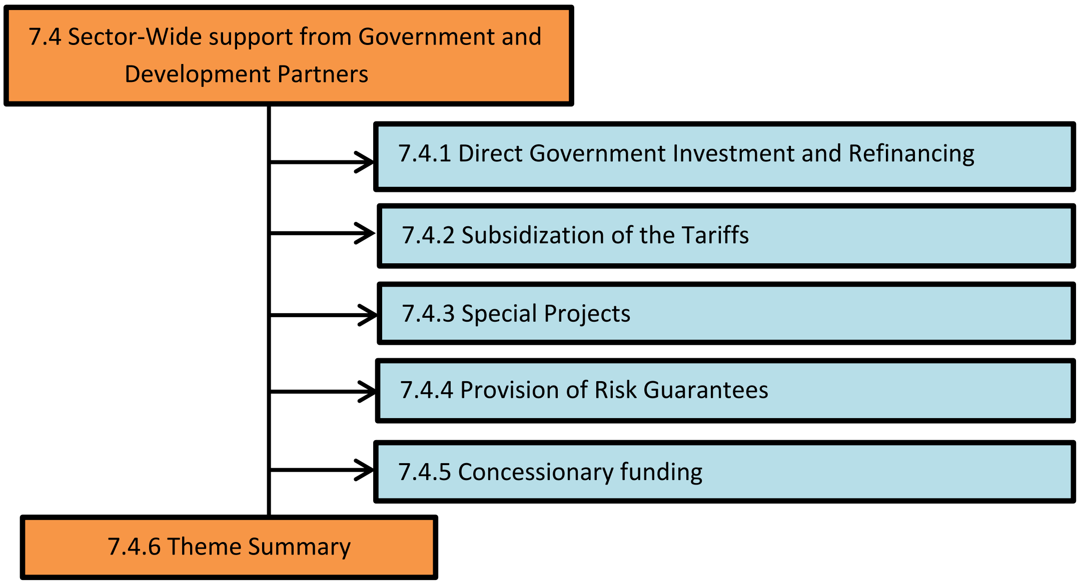
7.4: Government and Development Partner’s Sector Wide Support

The sector wide interventions of the government and development partners are identified as important stream of response. As already articulated, this partnership was agreed to provide a service and infrastructure with the joint support and resources of both the private and public sector partners. As such, the service delivery and infrastructure outcomes accruing to the public are important to a wide range of stakeholders, including government and development partners. At the same time, government residual responsibility in the provision of social services inevitably calls for government intervention to the partnership. Indeed the evidence indicates that in times of difficulty during implementation, an important stream of response is the intervention of the government.

This study categorizes these government responses to the partnership challenges in two broad streams. The first stream is the obligatory government support premised on the commitment made in the partnership agreements, specifically the distribution support agreement - where government offers to provide specific support in specific circumstances to the partnership. The second stream is the non-contractually obligated support of the government to the partnership through sector wide interventions. Since the evidence of important contractually obliged interventions has been articulated in the preceding section, on enforcement of the contractual safeguards, the focus of this theme is on the non-contractual interventions.

This study finds two important aspects related to the non-contractual support. First, this is driven by the broader development and public service ambitions of the government and secondly these interventions are sometimes delivered with/or by the international development community actors. In the following sections, a range of interventions delineated from the perspectives and experiences of the actors are reported. These responses include direct government investment and refinancing, subsidization of the tariff, implementation of special projects, risk guarantees, concessionary funding.

Figure 7. 4 : Theme structure: Sector-wide Support from Government and Development Partners



7.4.1: Direct Public Investment and Refinancing

Since the commencement of the partnership, government has provided support to respond to public concerns on tariffs. As observed in the previous chapter, challenges in the implementation stages particularly relating to interaction between the partnership and the external stakeholders have included billing and defaulting mainly emanating from customers complaints of the exorbitant pricing for the electricity. It has also been variously observed that the default in payment heightens the commercial losses and undermines the efficiency of the sector. As a response to this affordability challenge, the evidence indicates government attempts to complement investment of the private sector with public investment in the infrastructure. In making direct investments to the sector, government hopes to utilise public financing without a return expectation so as not to overburden the tariff. As such, government is directing investment in areas that are not attractive to commercial interests of the private sector as they are viewed not to be commercially viable for the private sector investment such as expansion of the system. As an interviewee from the government ministry illustrates in the excerpt below:

> *It is good to sit down and say UMEME invest here and get your adequate return but also government you may have to come in and invest, be an investor, there is no choice. I know government invests in rural electrification because rural electrification does not make money therefore we created that rural electrification agency REA for government to use it as an arm to expand the system.* ***PU-NA-3***

The other evidenced way is in government making investment in infrastructure projects alongside the private sector investment.

> *[…] other thing we are doing is when we had this experience of high tariff so now government had to bring in public projects, Karuma and Isimba (electricity generating dams), these are public projects intended to reduce the tariff. Isimba at generation will be at 5 cents, 5US cents, Karuma will be at generation tariff of 4.8 cents compared to Bujagali which is now 11 cents we are negotiating to bring it down to 7 cents. So now if you work the weighted average of these tariffs you get slightly low tariff.*

In government investing in non-commercially viable areas and in public projects, it is expected that a unit of cost of electricity will reduce thus potentially helping to ameliorate one of the defining aspects of contention in the distribution particularly as it relates to dealing with end-users.

Relatedly, government response has also involved refinancing of the private sector run projects. The current example under consideration is the Bujagali dam. Bujagali is a 250 megawatt hydropower station built on the River Nile in 2012 with funding from the World Bank, European development finance institutions, and private financing. As an generation costs are important contributor to the tariff, government hopes that a refinancing model will help reduce the unit cost of generation in the interest of enhancing affordability.

> *[…] you reduce the cost to the customer or, for example, if you look at now upstream component because believe me the upstream component is about 70% of the tariff. Right now they are discussing how to refinance the biggest dam, the Bujagali dam, how do we extend the concession period, the term of the concession, so that we bring down the cost or recoverable per annum and that discussion I think is complete, its going to save the customer may be up to, in my computation may be up to three cents per kilo watt hour, down words.*

In essence, investment in infrastructure through public projects and refinancing of the ongoing private sector projects will reduce the cost of generation and ultimately the cost of the tariff to consumer.

7.4.2: Direct Subsidization of the Tariff

Government anchored response to some challenges including customers payment defaulting challenges comes through direct subsidization in the cost of the tariff. The interview evidence indicates that although there has been a deliberate government intention to remove subsidies and ensure that the full costs are recovered through the tariffs, peculiar situations have led to continued interventions by the government through the use of subsidies. Two forms of subsidizations are explicit. These include payment of rebates to industries and direct subsidization for consumers.

Rebates to industries have followed numerous business complaints on the inability to favorably compete in the region as result for high tariffs. Infact, it is variously noted that the cost of the electricity in Uganda is the highest in the region. As a result, many industry actors either lobby for special tariff cuts, default on payment and in some instances make illegal connections, as the following excerpt illustrates:

> *[….] that becomes a big political problem because no government likes increases in tariffs because people are looking for votes as you know so that was a very difficult time. We had naturally do a lot of public relations to educate the people this is an inevitable situation you are better off at least having this (expensive) power and also we moderated the industries by giving them some rebates. So, clearly of course it took a toll on our budget significantly but that's an externality in that it doesn't have to happen but it happened.*

Relatedly, government subsidises for domestic users particularly in areas disadvantaged economically in an effort to uplift the disadvantaged communities and in exercise of government social obligation to provide services.

The second stream of non-contractual sector wide support involves the intervention of the government with the development community. The evidence indicates an integral role of the development community in supporting the sector in a way that helps in redressing the challenging issues during the implementation of the partnership. Three lines of intervention by the development partners are explicit and including funding of special projects, risk guaranteeing and concessionary funding.

7.4.3: Funding for Special Projects

Firstly, the development partners are actively supporting government by investing in the special projects to increase access to electricity. Most significantly through the Rural Electrification Agency (REA) the increasing access has become an integral focus for development support. As noted in the previous sections, REA was established in the Electricity Act of 1999 alongside the Rural Electrification Fund. By 2001, the electrification rate in rural regions was only 1% and at the time of this study was estimated at 7%. Much of REA's work has been funded by the World Bank's Energy for Rural Transformation (ERT) project, which is currently in its second phase. Phase three began in 2016. REA's target is 26% electrification by 2022 and universal access by 2035 in Uganda. Besides expanding access, the investment made also enable the actors to maintain the cost of the tariff. As one interviewee observed:

> *[…] for the betterment of our people in terms of value of their lives, we have distribution partners like the world bank, we have KFW, we have IFC also care access agenda, not the Chinese regarding this access issue, those are really the development partners to allow us to connect to more and more customers up today. They have really supported the access agenda, and indirectly they have helped us to maintain the tariff because the funds they deployed to us to implement access, (and) to implement new connections.* ***PR-PA-2***

The interventions geared towards increasing access to the electricity thus attract investments that would have been made using the private capital and thus further burden the tariff. By so doing, the intervention acts as a response to an important issue of bill payment at the implementation phase.

7.4.4: Provision of Risk guarantees

Secondly, development support has provided risk guarantees for investments made. Risk guarantees are an important component in facilitating capital sourcing particularly for the private sector partner with the investment responsibility. The development partners provide partial risk guarantees. In particular, the Multilateral Investment Guarantees Agency (MIGA) of the World Bank whose mandate is to promote cross-border investment in developing countries by providing guarantees (political risk insurance and credit enhancement) to investors and lenders has been highlighted in the case of the electricity distribution partnership. As the following excerpt reveals:

> *You see the development partners have, if you will, like a role to support the entry of the private sector for example if you look at the World bank they will give, as a bank, they have instruments like MIGA, the MIGA guarantees, then also they have partial risk guarantees. That is important because someone who is coming here and there is no history of investment in the power sector requires certain assurances. So development partners come in and do that.* ***PU-NA-3***

In supporting the generation, for example, in June 27, 2018, MIGA agreed to issue up to $231,279,458.71 in guarantees covering Bujagali Holding Power Company Limited's (BHPCL) equity investment in the Bujagali Hydropower project. The guarantees are issued for up to 20 years against the risk of breach of contract.

Similarly, explaining the interference in earning as a result of disapproval of investments, an interviewee observed that for the concession to proceed, they require a lot of guarantees to cover for such risk in the course for the concession.

Actually average (return on investment) is 12%, actually we don't earn it. We don't earn 20%. How do you earn 20% when some of your assets investments on which you are supposed to earn are not included in the tariff? So we see these things but again you look back and say what the risk profile was at the time. The concession arrangement requires a lot of guarantees from MIGA, IBRD, and from the World Bank to make these things work. For Bujagali deal to be concluded it required the World Bank, IFC, African Development Bank investment had to cover. **PR-PA-1**

7.4.5: Provision of Concessionary Funding

Thirdly, development partners provide concessionary funding to meet recurrent investment needs in the sector in order to expand the network and increase alternative sources. Most notably, because of the difficulty for private investors to receive domestic and foreign capital at reasonable rates due to banks' fears of political and economic risks, development partners come in to support. Through concessionary funding the end goal is that the Ugandan energy portfolio will access funding to develop cost effective power plants. As the quote below illuminates:

[…] some of them have actually extended, like KFW, NORAD, like Japan JICA, they have extended concessionary money to expand the network. I think that has been very useful there is no doubt about it. The others have also worked with government to review policies. So to me there has been a good benefit in terms of creating a bridge for investors to come in, give guarantees in terms of complementing investment, that is important and then in terms of working with government to borrow experience elsewhere. Because that's how business is done nobody wants to come and see an isolated government alone. If there is a struggle become government and you where do you run to. So they play that moderating role. **PU-NA-3**

As a case in point, the KfW Entwicklungsbank finances development projects in its partner countries. In 2016, KfW Entwicklungsbank reports commitment of EUR 7.3 billion worldwide to 328 new projects and programmes. The Division for Energy and Environment in Sub-Saharan Africa of KfW Entwicklungsbank has worked for more than three decades on promoting energy access and improving the energy supply and report financing of more than 68 infrastructure projects in Sub-Saharan Africa, with a volume of close to EUR 1.6 billion. On behalf of the German Government, KfW Entwicklungsbank promotes infrastructure development in Sub-Sahara Africa through concessional finance window that includes grant financing (e.g. for rural electrification projects) as well as loans at highly concessionary conditions.

For example, Global Energy Transfer Feed-in Tariff (GET FiT) programme, 17 small-scale renewable energy generation projects promoted by private developers, with a total installed capacity of roughly 160 MW, are fast-tracked with one of the aim to help stabilize Ugandan power sector finances by adding least-cost generation capacity, and help decentralize and diversify Uganda’s energy mix, thus enhancing security of supply.

Three identified streams of support by the development partners including direct investments in projects, provision of risk guarantees and provision of concessionary financing are all geared towards expanding access but with the immediate and operational target of expanding production and the end user costs which remains important challenges as noted in the in the preceding chapter.

Theme Summary

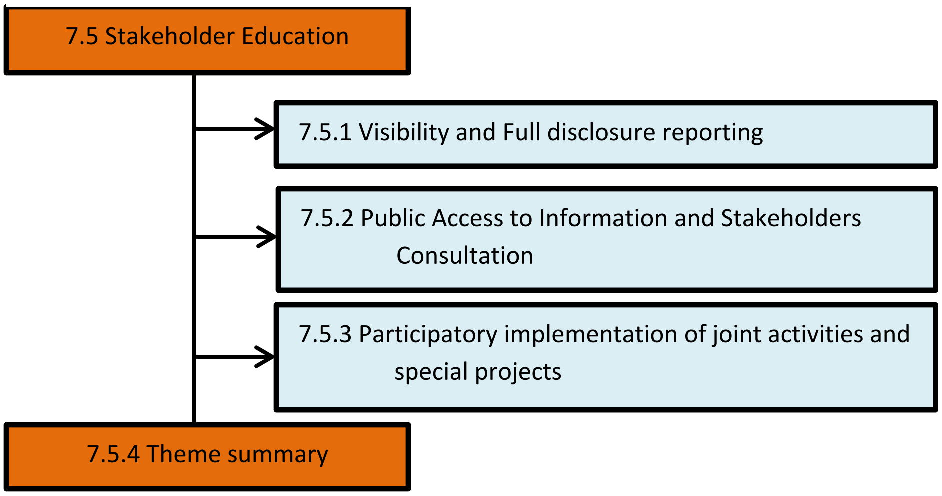
Theme has reported the specific dimensions of government and development partners sector support and portrayed the indirect non-contractually obliged approach of government to affect the challenges faced by the partnership. These dimensions of support evidenced in the theme include direct government investment and refinancing in the sector, subsidization of the tariff, while the development partners have implemented special projects, provided risk guarantees and concessionary funding.

7.5: Stakeholder Education

The evidence indicates actor's attempts at improving the stakeholder knowledge about the partnership as another important way of responding to the governance challenges during implementation. In the earlier chapter, it is evidenced that some challenges that manifest are a result of limited stakeholder knowledge and understanding of the partnership resulting in the mismatch of expectations between the different partnership stakeholders. The mismatch, as illustrated in the chapter previous chapter, manifests at two levels. The first is internal between the contractual partners and the second between contractual partners on one end and other value chain actors and other external stakeholders.

The analysis of data reveals important approaches that actors use to deliver different types of information to improve understanding of the partnership among different stakeholders. These different approaches are organized and illustrated in three categories including, visibility and full disclosure in reporting, enabling public access to partnership information and participatory project implementation. These categories are illuminated in the subsequent parts of this section.

Figure 7. 5: Theme structure: Stakeholder Education



7.5.1: Visibility and Full Disclosure in Reporting

Joint generation and sharing of reports among partners appears an important tool used by actors in the partnership. During implementation, various actors and players generate information that informs their decisions making and establish sets of perceptions and expectations of the partnership and/or of the other others. To reduce information asymmetry especially among partners, the information is shared through reporting arrangements. In particular, the evidence indicates that partners ensure visibility of reporting between themselves and other stakeholder through periodic reviews and cascaded reporting.

Firstly, through periodic reviewing, different types of reviews of the partnership are conducted during the implementation. These reviews include seven years reviews, quarterly reporting, and monthly reports. In regard to the seven year reviews, after every seven years of the implementation, review of the partnership is conducted. In particular the reviews focus on license, budgets and performance targets. By so doing, the provisions of the license, the budgetary provisions and performance targets are not only subjected to thorough process that takes in consideration the wider circumstances and expectations of actors but also ensure that the commitments are in open and known to actors. As this quote illuminates:

> *But lucky for us, between ourselves and ERA we have periodic reviews, every seven years we review the license, the budgets, the performance targets, so we are under the discussion 2019 - 2025, what are the operation budgets, what are thresholds of past performance, what's the requirement on investment side, so once we lock in those figures the problem comes in managing any excesses because you can say we are going to grow by 5% as a sector then we grow like 6% or 7%, (so) who is going to finance that additional growth? That is the grey area for us…so that is (a) dominant side of our discussions from time to time.* **PR-PA-2**

As the quote highlights, locking in the figures for the period helps to ensure that expectations of actors are clear and tractable. Although locking in the figures for the period is important for clarity, the above quote also suggests that the unexpected deviations often emerge and require to be managed. Similarly, periodic reviews have not been seamless as they tend to be affected by external actions that distort the reviews timelines which blurs the intention of periodic reviews. As the senior manager at the regulatory authority reflects in the quote, the actions of external actors occasionally distort the timelines and impact of objectives the reviews:

> *[…] one critical term that was agreed [was] that okay we all dont know what the loss is let's operate for 5 years and in the 5th year lets study the losses or we would have done studies on the loses such that we adjust for that. What materialised is that after 4 and half years politics kicked in. Instead of following the agreement to look at how can we tighten through the agreement using technocrats who know what they are doing, we started saying kick them out they are taking alot of money and so on and so forth […]. So when the mumbers finally came to the table that this is how much to pay [to terminate], the timeline for negotiating and tightening the agreement had apassed.* **RE-NA-1**

As reflected in above quote, these reviews are altered by different interests that distract both the objectives and different sets of expectations that need to address.

The other periodic reviews are the monthly and quarterly review of the partnership. The monthly and quarterly reviews in particular provide an opportunity for the regulatory authority and the operator to raise and address queries on a continual basis. In the monthly report, management accounts of the operator are shared with the regulator and on the quarterly basis both the regulator and the UEDCL review capital investments made by the private operator. As an interviewee from UMEME depicts the process in the quote below:

> *We report to them (ERA) on a monthly basis. On a quarterly basis they have to come and review our capital investments. Then on a monthly basis we give them our management accounts. They look through and (if they) have queries and we have that kind of conversation. Then as you know, we are private entity which is listed on the stock exchange, so we have auditors also come in review and issue out whatever to investors and the public and the regulator and even us.* **PR-PA-2**

The second part of this intervention involves cascading reporting. This is where regular sharing of reports among actors in the partnership and, as necessary, with the external stakeholders facilitates visibility and disclosure. Among the direct partnership actors, a practice of cascaded interaction ensures that actors in the partnership are informed of the decisions and any rationalization informing such decisions. In other words reports are not only shared for information purposes but also to seek the input of others. In the illumination below by an interviewee from the regulatory authority, a depiction is made of actors aligning themselves through cascading reporting processes from the operator through UEDCL to the regulatory authority:

> *[…] but even more commonly now what has been happening is that when for example there is a submission going to be made by the concessionaire (UEDCL) they will first pass it by the asset owner (UEDCL) then by the time it is literally delivered here at least they (UEDCL) would have an eye and they have no objection perse so sometimes its only us, sometimes it looks disappointing but there are cases where the asset owner will say yes but then the regulator will say no because of the assessment from the regulatory perspective not from a corporate perspective.* **RE-PA-3**

Such cascaded interaction facilitates the visibility of operations among the interacting partners that enables the reconciliation of the expectations.

7.5.2: Public Access to Partnership Information and Stakeholder Consultations

Further, within the domain of stakeholder education and awareness raising, observations have been made on actors decisions to allow or enable public access to partnership related information. As a practice, information on some of the important decisions made regarding the implementation of the partnership are made available to the public. Specifically, the Electricity Regulatory Authority provides important information on specific reports and general information on the sector, including information on the distribution partnership. As one of the interviewees explained, the purpose is to enable open access to the decision processes to public and allow the stakeholders to validate the decisions against the set procedures:

> *We have departments, we have techinal regulation, the engineers, we have the lawyers, we have people who do investment verifIcation and all those things but all that needs money and we put in the tarriff. So, we have all these documents on our website, tariff setting guidelines, tariff code, section 75 of the Act.* **RE-PA-7**

In making important information available for public access, the actors assume that stakeholders will be aware of the important issues that lead up to the decisions on the actor's actions.

Similarly, information is provided to the stakeholders through direct engagements. These direct engagements take different forms including consultations with the various stakeholders and/or their representatives and through responding to queries of oversight public authorities such as the parliamentary committees. In engaging the stakeholders, the interview evidence suggests that the focus is to implore understanding from both actors and stakeholders involved and to seek an amicable settlement for differences.

> *So either you engage them and say you guys you have to tell them can you bring 5 million, so you would have to engage. Sometimes you end up engage political representative who is putting pressue like the Resident District Commissioners (RDCs), so you would have to engage the RDCs then the police structure because sometimes they can get violent when you are going to disconnect….Some for instance engagement with*

millers, managing stakeholder expectations because many times we have had joint sessions to explain to customers, especially on the pricing. **RE-PA-8**

As noted earlier, the tariff is one of the aspects in which friction during the partnership is most witnessed. As the quote above demonstrates, managing expectations of the stakeholders is an important driver for partners during implementation phase of the partnership and also reinforces the centrality and sensitivity of tariffs in implementation thus requiring specific focus on providing explanations to pricing decisions.

Moreover, engagement with stakeholders has also focused on educating stakeholders on the different mandates of the different players in the sector. The evidence earlier points, misinformation on different roles of the actors in the partnership often leads to misplaced and misdirected reaction. Particularly because the distribution partnership under focus is the main interface with the customers, some misconception and or misdeeds of other actors are addressed to the distribution actors. The interview evidence points that actors in the partnership, particularly the private operators whose public opinion and brand image is risked by misplaced critique, make attempts to engage the different stakeholders to provide information on the distinctive roles of the actors. As the quote from the interviewee from the private operator clearly puts it:

The other one you look at, who is the other interested party, is the public legislative team in parliament. We have had a frosty relationship with parliament - understandable! understandable! why? The parliament represents 100% of the population and 77% of the population has no access to the grid, of course they will be fighting for them. Unfortunately they will be looking at you because you are the face of the sector to reach all those guys as fast as you can, and they represent the interest of the masses. Now that is where we have had a frosty relationship but our role is to continue engaging, educating them to ensure that they understand what we do and that rural electrification drives the other agenda of the masses. **PR-PA-1**

As a response mechanism, increasing stakeholder knowledge about the sector and the roles of different actors helps to address any misconceived and attributions of responsibly recreate stakeholder perceptions about the partnership.

7.5.3: Joint Participation in Activities and Special Projects

Moreover, the evidence points to actors joint participation in special projects as a platform for increasing awareness and for education stakeholders. First, the interview evidence points that in situations where there are common processes and actions of mutual interest to actors, the actors often opt for joint or simultaneous execution of activities. This is in bid to save resources, harmonise information among actors, and to pursue common public service objective. The evidence reveals particular joint activities undertaken in this partnership including asset and investment verifications and joint intersectorial reviews.

Although these activities are mentioned early under institutional complementation, the unique emphasis is on how the activity is executed rather than on its complementation of institutions. As the following quote illuminates, the common objective is to achieve efficiency as all actors understand the common obligation and the importance of syncronisation of activities:

> *[…] for example investment verification, we have a responsibility and the public sector partner has a responsibility. For example when we are conducting investment verification this activity is not undertaken only by the regulator, we go hand in hand with the asset owner and regulator. Everywhere we shall go and when for example there is a proposal by the regulator or even sometimes by the utility, the asset owner themselves no this should not happen or no we are rejecting this because of xyz and we have no grounds for example to say no you include it, no we shall not do that. So because the operations have a similarity in away, although what we are looking for is in some cases different from what they are looking for, we generally move together.* **RE-PA-3**

The other joint activity is the intersectorial reviews. As noted in the earlier sections of this chapter, the intersectorial review committee also functions as a complement to the institutional framework. Beyond the complementation for institutions, the joint execution of the review also enables to functionally synchronise electricity sector information in regards to priorities and actions of other actors. In conducting reviews, common issues of concern across the sector are considered with the input of various actors in the value chain that affect and/or affected by the particular action. As the quote below illustrates, cross cutting issues of concern such as the need to lower the tariffs are considered with input from various contributing actors:

> *we've had that discussion on the tariff and said how do we manage this tariff downwards, there are certain interventions, building demand, its actually an inter-sector institution review committee that's looking at whats the demand trajectory like how can we stimulate more demand because the price is just…equals in mathematics the cost, the revenue divide by the demand, so if you grow the demand less, you reduce the cost of the customer or for example if you look at now a upstream component because believe me the upstream component is about 70% of the tariff.* **PR-PA-2**

Besides sharing information and jointly considering options to address the common issues, the joint sector review is an engagement platform aids in reducing ambiguities and any contradictions in the course of implementation. More specifically, as the interviewee observes below, it enables engagement with wide range actors on broad range of issues:

> *Its dual, its by proxy through ERA especially things to do with tariffs, investments but the ministry of energy is the chair entity or person in the interinstitutonal sector review committee. Looking at the entire sector broadly, demand, supply all those issues, so we have that engagement with them, first and foremost.* **PR-PA-2**

Secondly there is joint implementation of special projects by actors. Like joint implementation of activities discussed earlier, special projects include sector wide initiatives developed to support the sector. The interview evidence indicates that most of these projects have either been government or development partners supported and have focused on enabling affordability and access. By actors jointly participating in delivering these projects, actors have the opportunity to identify first hand challenges and design and syncronise responses based on mutual learning from each other.

In particular the projects provide an opportunity to connect practical challenges in the design of policy options and methods of policy implementation in a way the addresses the important sector issues generally but also those integral to the distribution partnership. In the excerpt below, the interviewee from the private operator familiar with the ongoing projects clearly illustrates these rationales and the interactions:

> [.….] *we've heard the world bank OBA project, we've heard the kawanda transmission line corridor, that one which dealt directly with them and of course KFW, we have heard the connection policies coming on board to kick start that connection, to revolving the fund, subsidization of the customer, so they involve us in the policy discussions, then of course for us we implement, but we are involved in that discussion at that level to understand operational issues that may come up. We give them advice then they go back and say okay based on our assessment, this is the best direction we should take, we've raised these particular funds can you please implement.* **PR-PA-2**

Through participatory special project implementations information is shared and ideas are exchanged that intend to address overall sector policy level challenges that, in the process, enables information to be shared and acted on in a way that enables actors to be informed at both partnership level and the sector wide level.

Theme summary

In this theme, stakeholder education and awareness creation as a one of the broader response mechanisms to governance challenges has been presented and exemplified. Specifically, focus has been placed on the three primary tools identified for education and awareness creation. These tools include visibility and full disclosure reporting, public access to partnership and stakeholder consultation, and actor participation in joint activities and implementation of special projects.

7.6: Chapter Summary

This chapter has presented four themes on response mechanisms of the actors during the implementation phase of the electricity distribution partnership, including

- Institutional complementation
- Enforcement of contractual safeguards
- Government and development partners support
- Stakeholder education

Each of the four thematic findings arises from the interviewee's experiences and the documentary evidence and backed up with excerpts and quotes. Each theme concludes with the theme summary

CHAPTER 8: DISCUSSION OF FINDINGS

8.1: Introduction

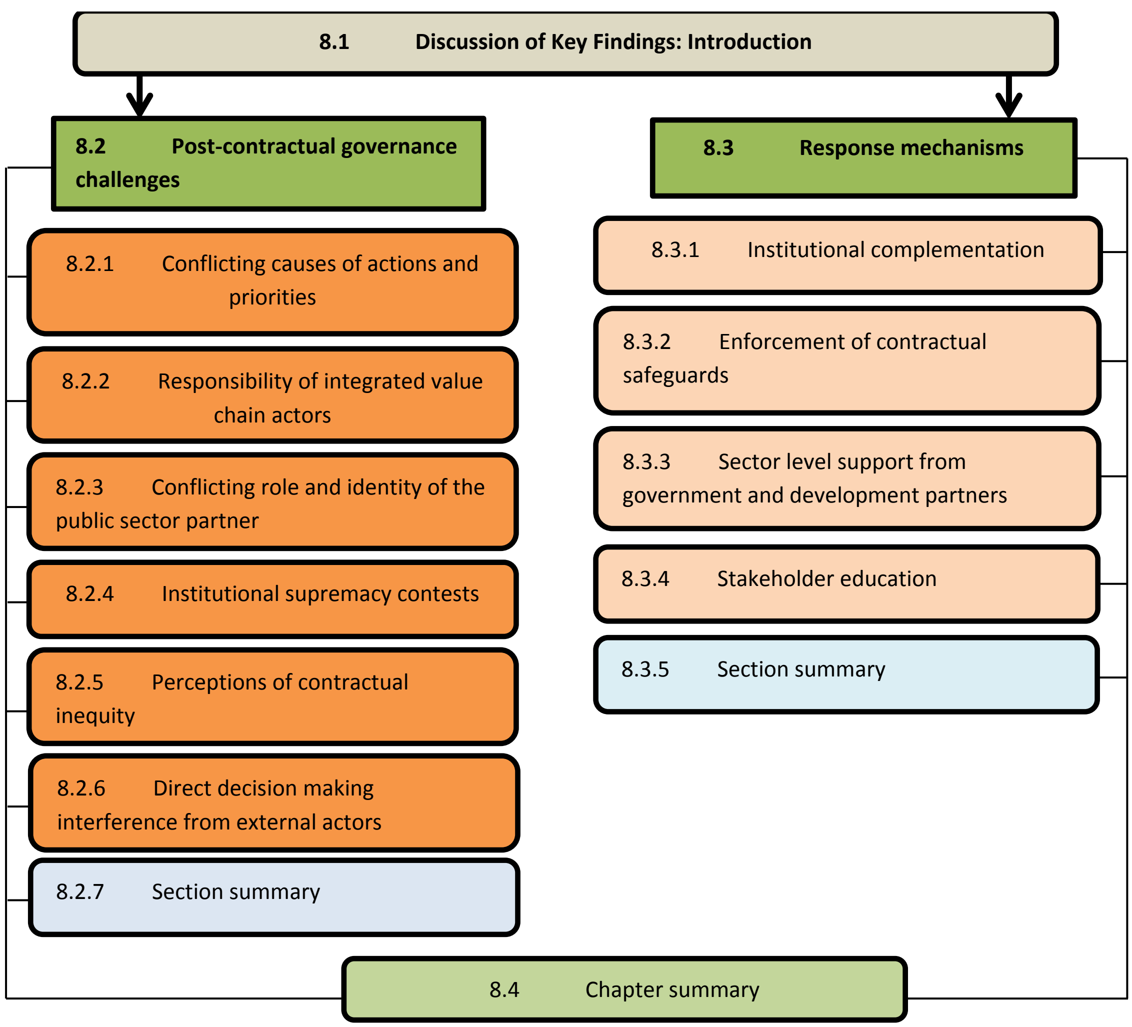
In the preceding chapters, the findings on the challenges and response mechanisms generated from the analysis of interview data were presented. In this chapter, the key findings are discussed. In undertaking this discussion, the key findings are summarized, interpreted in the context of extant body of research related to PPP governance and management and institutional theory. The discussion undertaken demonstrates a range of relationships between the findings of this study with extant research and as well as with the nature of explanations espoused by institutional theory.

In particular some findings are consistent with and reinforce previous results and explanations of institutional theory, some inconsistent with the available evidence and theory assumptions, whiles others reflect new and important revelations. In interpreting the matching, inconsistent, revelatory findings, reasonable speculative explanatory accounts are offered to bridge the gaps. These speculative explanations inform some of this study's claims, lessons, recommendations and suggestions made for areas for future research.

This chapter is divided into two sections. In the first section, a discussion of the key findings on the post contractual PPP governance challenges is provided. This section summarizes and interprets specific elements identified from three important themes delineated from the interview data. The three thematic categories in which the specific challenges are organized include, partner interrelationship, regulation of the partnership activities, and interaction with external stakeholders. The key findings discussed include conflicting courses of action and priorities, responsibility of integrated value chain actors, conflicting identify and role of public sector partners, institutional supremacy contests, perceptions of contractual inequity, and operational interferences from external actors.

The second section provides a discussion of the strategies utilized by the actors to respond to the challenges. The findings are thematically organized in four categories including, institutional complementation, enforcement of existing institutional safeguards, government and development partner's sector wide support, and stakeholder education. Each section ends with section summary and the discussion closes with chapter summary. Figure 9.1 provides the chapter outline

Figure 8. 1: Outline of the Discussion Chapter



In the interest of consistency and further clarity, is it important to note that the two streams of discussion correspond with the first two (of the three) main research questions addressed in this study. Specifically, the findings on the post contractual governance challenges of PPPs and mechanisms utilized by actors to respond to the challenges presented are answers to the research questions one and two respectively. Further, the key findings selected for discussion in this chapter, and for each of the streams (or research question), are selected from different thematic categories as presented in the preceding findings chapters. These findings are what the researcher perceives as more important in each theme.

Although the researcher premises the discussion on the interpretive summary of each key finding, whenever it is deemed important, some direct references are made to the evidence supporting the respective finding.

The research addressed the following research questions:

1. What post contractual governance challenges are faced in Public-Private Partnerships at the post-contractual phase?
2. How do Public-Private Partnership actors respond to such challenges in this phase of the partnership implementation?
3. What lessons can be learned and recommendations made for post-contractual governance of Public-Private Partnerships?

8.2: Key Findings on the PPP Post-Contractual Governance Challenges

This section is a discussion of the key findings resulting from the research RQ 1 addressing the post-contractual challenges of Public-Private Partnership. These findings discussed in the context of extant literature reviewed and the guiding theory of this study.

Table 8. 1: Summary of Key Post Contractual Governance Challenges and Key Sources Providing Research and Theoretical Context for Discussion

RQ 1: 1. What post contractual governance challenges are faced in Public-Private Partnerships at the post-contractual phase?	**Some of the important sources providing research and theoretical context for the discussion**
8.2.1. Conflicting courses of action and priorities	(Klijn & Teisman, 2000a; Rainey & Bozeman, 2000; Ramiah & Reich, 2006; Saz-Carranza & Longo, 2012) (Johnston & Gudergan, 2007c; Mouraviev & Kakabadse, 2015)
8.2.2 Unclear responsibility of integrated value chain actors	(Boyer, 2016; Hueskes et al., 2017)
8.2.3 The Conflicting Identity and Role of the Public Sector Partner	(Jamali, 2004b; Appuhami & Perera, 2016; Boyer, 2016)
8.2.4 The Institutional Supremacy Contest	(Hodge & Greve, 2010b; Chen & Hubbard, 2012; Mouraviev & Kakabadse, 2015; Vangen et al., 2015; Cohen et al., 2016) (Chen & Hubbard, 2012)
8.2.5 Perceptions of Inequity of the Contractual Terms	Boyer (2016) (Hart, 2003; Acerete et al., 2010; Boyer, 2016)
8.2.6 Operational Interferences from External Actors	(Birner & Wittmer, 2006b; Johnston & Gudergan, 2007c; van den Hurk & Verhoest, 2015)

8.2.1: Conflicting Courses of Action and Priorities

The individual actors interviewed revealed that an important difficulty during the post contractual phase is on differences in actor's priorities and choices of courses of actions. The actions chosen and acted on by different actors occasionally conflict as different actors prefer approaching different issues in the way they believe "right way" to act. The basis of this follows the different interpretations that the actors placed on the nature of issue to be addressed and the relative importance of the issue to the specific and peculiar interest of the parties at the time.

One of the commonly noted areas of difference in courses of action and their prioritization related to investment plans where the different partners preferred to make investments in specific areas of the project as opposed to others. Investment in this concession type of partnership and in the context of this specific project is critical for the financial returns to the private partners. At the same time, this is of interest to the public sector for ensuring effective service provision. From the viewpoints of each actor, the courses of action are 'right' and as a result set up an outstanding difficulty.

Similarly, the observations noted, particularly from the public sector actors that on some occasions the private partner delivers the bare minimum even when delivering more is possible, reinforces this challenge. This finding within the context of PPP scholarship is not isolated. Many scholars have accounted for similar contradictions and difficulties in partnership between public and private entities on the differences between public and private partners' institutional logic (Klijn & Teisman, 2000a; Rainey & Bozeman, 2000; Ramiah & Reich, 2006; Saz-Carranza & Longo, 2012).

For instance, Ramiah and Reich (2006) noted that it is difficult to bridge the different goals, values, and processes of public and private organisations. In this regard, since individual actors work as agents for the respective public and private sector organizations, the courses of action and the priorities will be influenced by the respective goals and values and processes of the organisations represented. Klijn and Teisman (2000b) similarly note that, "Both parties tend to give priority to their own considerations, which has led to classical principal-agent problem" (p. 88). ".. sticking to one's own narrow interests can lead to very meager results" (p. 93). In this regards the narrow underlying absence of common set of goal, values and interests precipitate the difficulties in reaching common agreements on the course of action and on the priorities of action to be undertaken by the actors representing the different organisational partners in the relationship.

It is important to note that these difficulties also relate to noted intricacies of the post contractual phase of the PPPs in which a realization is reached that it is practically impossible to establish instructive provision beyond formal founding commitment and obligations to predict and predetermine all the specifics of future relationship. This incompleteness of formal agreements therefore implies that the details of the course of actions will not be exhaustive. In other words, the incompleteness of PPP set the stage for possible divergences between actors on the course and priorities of action as much it creates room for more innovative approaches to be explored by parties in the partnership.

In a nutshell, the difficulties experienced on conflicting, yet hardly predeterminable, courses of action depict ways of partners extending and pursing self-interest within the confines of broadly determined and agreed partnership course of actions at the pre contractual stage. This difficulty can indeed be associated with or understood as partner opportunism behavior and scheming political behavior that scholars have already identified as a critical challenge for partnerships generally (Johnston & Gudergan, 2007c; Mouraviev & Kakabadse, 2015).

8.2.2: Unclear Responsibility of Integrated Value Chain Actors

This study uses the idea of value chain partners to refer to the actors whose input is critical in enabling the delivery of the service but not as direct partners in the PPP project. The interviews reveal that one of the key difficulties is in dealing with the failure or inadequacies of the value chain actors that affect the ability of the principal partnership actors to deliver the service in the form and timing expected. Although one of the principal features of PPP is the bundling of responsibilities in the contract, the nature of disintegration that occurred in the electricity sector meant that three, formerly integrated, business units were created. The generation, transmission, and distribution separate business units.

Despite the structural disintegration, the nature of interdependence remained with the requirement of high and routine coordination across the business units. In fact, since the partnership project is responsible for the final service delivery of the service to the users, any failure on the part of other value chain partners is ultimately reflected in how service is being provided. As such, the partnership bears the immediate and direct reaction from the users and or their representatives. The interview evidence clearly illustrates that often the actors in the distribution business unit become victims of reactions elicited from circumstances beyond their control.

This difficulty is a peculiar finding, to the best of the researcher's literature appraisal, there has not been any explicit scholarly identification of this kind of challenge. It is likely that this peculiar challenge arises because the Uganda government policy decision to unbundle the vertically integrated business units of generation, transmission and distribution into independent units with separate management. By making the unbundling decision, the government contradicted the scholarly characterization PPPs that emphasizes the integration or the bundling of responsibilities in PPPs contracts (Boyer, 2016; Hueskes et al., 2017). In the literature however, the studies that focus on asset based PPP projects in economic and social infrastructure have not focused on projects with the similar level of value chain interdependence as in this case study project and sector. In other words, the bundling of responsibility in other studied projects is in such a way that the partners are responsible for the full breath of value chain activities necessary for the provision of the service. In such a case, the partners would be responsible for generation, transmission as well as the distribution of the electricity to the end user – which is not the case in the setup of the partnership investigated in this study.

Further, it is also likely that this particular challenge is a peculiar result of the position of the partnership in the value chain of electricity service provision in Uganda. This PPP operates at the front end of the service delivery where there is a direct interface with the end user. As a front end service provider, regardless of the actor's level of control over the back end operations of the value chain partners, the front end must interface with the reaction of the end-users. In this case the responsible actor maybe 'shielded' by their position in the value and hence 'out of reach' of the end-users. Since this study did not focus on all value chain actors in the electricity service, it is impossible to determine if the limited amount of control over other independent value chain actors is an important difficulty that the partners face in the course of the operation.

Overall, the inevitable interdependence in the service delivery value chain presupposes knit and routine relationship among the different actors along the value chain. In this case however the government policy to disintegrate the value chain and set up independent management for each element means that there is independence without control. Without control of the other value chain actors and their processes, in this case the distribution front end partners become vulnerable and exposed to the extent of the other actors weaknesses. It is likely that because the extant studies focus bundled PPP projects with control over all important processes for the provision of the assigned public services, this difficulty has not been apparent. This case therefore foregrounds the peculiar implications of unbundling a highly interdependent value chain into different units with independent management.

8.2.3: The Conflicting Identity and Role of the Public Sector Partner

The interviews reveal a largely inactive role played by the public partners, UEDCL, and in some instances inconsistent approach with the operator and the regulatory authority. As the owner of the asset managed by the UMEME, UEDCL takes the responsibility for the delivery of the services provided by the designated operator, UMEME. What is clearly observable in this case is that the public sector partner, which in this case is UEDCL, is largely inactive. In fact in some instances the actions of the public sector partner can be seen as directly competitive to the actions of the private sector partners. It is likely that this is resulting from the setup of the electricity sector and the contractual agreements made.

First, the partnership operates in a regulated sector where other distribution actors exist, only separated through zoning of the country. The partnership considered in the study between UMEME limited and the UEDCL operates in a clearly exclusive and marked zone and takes the largest share of the coverage, 80%. Before the concessioning of the asset to UMEME, UEDCL was directly responsible for the servicing of this territory. The concession meant that the assets for these territories, including some of the human resources, were absorbed by UMEME. Although concession agreements provide for the oversight role of UEDCL, it does not provide for routine operational role of the UEDCL besides ‘being a landlord’. This active role of supervising the routine delivery of the services is now undertaken the regulatory authorities that instead interacts with the UMEME on a regular and active manner.

Secondly, in addition to being a partner in one distribution partnership, UEDCL also operates the distribution business in other zones outside those designated for partnership. Occasionally, the conflict of interest arises on, particularly as to relate to territorial conflicts. On one hand UEDCL has to operate as partner to UMEME and on the other it has to protect its business interests against the same partnership its part of. This conflicting position undermines the roles of the public sector in this case as it cannot act as a partner and as competitor at that same point. This is critically important for the overall understanding of this relationship as partnership in which others must share responsibly and operate for the common interest.

This conflicting role of the public sector partner is yet another peculiar challenge that this study identifies. The extant literature has not yet noted this challenge. Although the literature variously point to the nature of the role of the public sector in this relationship (Jamali, 2004b; Appuhami & Perera, 2016; Boyer, 2016), the focus has mainly been on understating these roles as either a partner or a regulator and mostly its role at the formative phase. In fact, in analyzing the management control mechanisms for minimizing risks in PPPs in Sri Lanka, Appuhami and Perera (2016) observed that at the formative stages, the government supportive role involved issuance of guarantees for debt capital as required by the international lending agencies facilitating unencumbered access to the other resources such as land through undertaking evacuation and resettlements. In this case, the agreement also provided details of the roles of the government and the private sector over the 25 years duration of the partnership.

This clarity is not explicit in this partnership where the government role manifests in different ways as a partners, as a regulator and as a competitor and this is role spread across a number of different public sector organisations. For instance, the support agreement that the government signed with the private operator introduces support mechanisms that institutionalize other public sector organization's possible and direct relationship with the private operator, besides the asset owner (UEDCL) and sector regulator (ERA). Aspects related to risk guaranteeing, the ministry of finance takes the responsibility, in regards to performance supervision, it is observable that the regulatory authority takes that role and in regards to asset supervision the role is shared between the asset owner (UEDCL) and the regulator (ERA). In fact, it difficult to accurately pinpoint who the public sector partner is. This unclarity and conflicting role of the public sector challenges the interrelationship between partner and sets up a foundation for an ambiguous responsibility in regards to decisions and control of the partnership.

8.2.4: The Institutional Supremacy Contest

Thirdly, the interview evidence reveals an apparent challenge in reconciling the supremacy contest arising from the combination of contractual and regulatory control mechanisms that both apply in this partnership. As indicated in the earlier discussion, the role of the public sector as a partnership can very precisely be located to the set of agreements executed to establish their partnership including the lease and assignment agreement and distribution support agreement. Although these sets of agreements establish multiple and necessary interrelationships that the private partners ought to maintain with specific public sector organizations, little is noted in regard to conflict between them. In the context where the public demands can change and thus require changes in the nature of provision of the electricity service, some adjustments require to be made yet there is little room for the public sector partners, within the context of the agreement. As this situation pertains, the only room available to cause changes and influence the partnership is through the regulatory provisions.

This approach by the government or public sector to respond to policy issues by using regulatory authority and instruments to cause changes in the partnership occasionally contradict the contractual provisions. This tends to underrmine the authority of the contract as a central control instrument and alters the power relationship between partners.

In the context of the broader discussion on the role of institutions in Public Private Partnerships, this finding is not isolated particularly as regards to knowledge of tools for dispersion of power across the partnership (Hodge & Greve, 2010b; Chen & Hubbard, 2012; Mouraviev & Kakabadse, 2015; Vangen et al., 2015; Cohen et al., 2016). As institutions are meant to regulate actor's behaviors they consequently impact the power relations in PPP. The assumption here is that the institutions are neutral and no one party has power to determine and apply them. In this case its different, the government has power through the regulatory authority to modify rules through regulatory standards and processes even without input of the private actor. In theory, within the context of PPPs the government is supposed to hold policy resources while the private sector holds the financial and managerial resources and the institutions (particularly laws enforcing the contract) are supposed to control opportunistic behavior (Chen & Hubbard, 2012).

However, the peculiarity of this finding is in the application of sector wide institutions that can be created and recreated by the regulatory authority using its policy resources control to direct the course of the partnership. It is likely that because the government finds it difficult to change the contract to suit the policy interests at the time, the changes in regulation become easier to implement as opposed to the process of renegotiating the terms of the agreement. This can also be seen as government opportunism.

Secondly, this is also peculiar in the sense that, at the point of negotiating the contract, the regulatory authority was not involved in the process of negotiating with the private sector even though their control covered the scope of this partnership. In this case, two scenarios would be bound to occur, a) the regulatory instruments such as the licenses issued by the regulatory would have to be aligned to specific terms of the contract. However, if this occurred then the regulatory authority would be regulating the this partnership on a different set of standards to the rest of the players in industry as the terms for which the different players come into the industry will vary, b) the regulatory authority would have to regulate the sector using standard terms and conditions for the entire industry. However, if this occurs then the possibility of institutional conflicts would arise bringing into the fore the supremacy contest between the contract and regulatory rules.

The evidence in this study indicates the later in which, despite the existence of the contract between the public sector organisation and the private sector operator, regulatory and contractual institutional contradictions are prevalent. The private sector understands that the contract negotiated superintend over the regulatory conditions while the regulator believes its oversight role to be superior and as such regulatory conditions must superintend.

8.2.5: Perceptions of Inequity of the Contractual Terms

The perceptions of the extent to which the benefits and costs of collaboration are spread appropriately are a persistent difficulty in the post contractual governance of the partnership. When the concession was negotiated and signed off in 2005, the interview evidence suggests that the negotiation occurred in the context of significant technical incapacity on the part of the public sector. Specifically, this is in regard to inexperience of public sector with long-term partnerships, information asymmetry on PPPs, the poor quality of data available at the time, and political pressure for service delivery. Interview observation suggests that these circumstances could not enable the public sector to properly negotiate and thus the contract agreed was mostly imbalanced in favour of the private operator. In light of this context, three observations are particularly worth revisiting.

Firstly, the perception among the public sector interviewees is that the rate of return of 20% that was agreed was very high. While the counter argument is that at the time the country and sector risk profiles were very high and as such the investor needed to be compensated. It is important to note that at the time this project was the pioneer PPP arrangement that immediately followed reforms of the sector in which the integrated electricity sector was disintegrated. The evidence suggests that there was no experience both for the investor (investing in the country) and for public sector actors (on working with private sector through PPPs) to determine the appropriate rate return.

The interview evidence suggests that the rate of return was not necessarily determined through any specific process akin to the circumstances in Uganda instead the rate was benchmarked on other transactions concluded during the period in other parts of the world that were perceived to have similar social economic and political circumstances. Similarly, at the time of negotiating and concluding this partnership, it is important to note that the trend across many governments in developing countries was to involve the private sector to attract investment to enable delivery of the public services. As one interviewee indeed noted, the situation created what would be construed as a 'buyers market' with little to no bargaining power to public sector. It is not therefore a surprise observation that in the course of implementation some of these clauses have become contentious with the public.

The second key observation on the perception of inequity of the contractual terms is on the performance control, and in particular the concerns on the sufficiency (or in insufficiency) of the performance targets set, for the private sector partners. In this partnership, the performance contradiction of the private investor appears to be centered on the conflict of institutions that set up the performance parameters and measures. Although the contract is explicit on the expectations and timeframes for the private sector, it is evident that there are alterations, as noted earlier, on those expectations that are anchored on the regulation. In particular, although many interviewees acknowledge that the private partner has delivered to the agreed expectations, there is an explicit level of discontent on the sufficiency of the parameters and targets assigned. This is mostly a policy level driven perception rather than a contractual one. The difficulty to mitigate and respond to the policy level expectations in regards to meeting the changing service delivery expectations through the rather strict and inflexible contractual agreements that appears to generate the discontent on the contract and feelings of its inequality. It ought to be explicitly observed that most of the observations made on the inequity of the contractual terms are made by public sector actors in policy and regulation. On the other hand, concerns from the private sector actors is that the public sector actors are attempting to 'change the rules of the game' in the middle of the game.

The performance management challenge has been noted in the extant literature on PPPs. Most importantly, as Boyer (2016) notes, the public sector monitors PPPs through key performance indicators (KPIs) negotiated during the initial contract of the partnership. These key performance indicators specify operational and quality standards in respect to lifecycle costs. The analysis here reveals these indicators are not always sustainable and will require adjustment to meet with the changing policy demands. Partner opportunism is also engrained in the performance expectation as the both parties attempt to utilise the level of expected results to advance peculiar interests. Public sector opportunism in target setting can been seen primarily in how the public partners attempt to makes adjustment to the set expectation in the contract by introducing other measures through other regulatory instruments such as licenses that potentially overwrite the contract or simply undermine it. The private sector opportunism can be seen noted in the private sector attempting to stick to the national expectations even though such expectation would require to be adjusted in the interest of wider public outcomes.

Further the distribution support agreement that articulates the support arrangements and commitments made by the government appears to exacerbate the perceptions of skewness of the contractual terms against the public sector. The perception is that the government reabsorbed all the risk from the private sector through the support clauses. In theory, in the rationalization of PPP is on the sharing of risks and benefits that result from the partnership. Indeed the clauses of the agreement suggest that the government appears to reclaim all the risk that private sector ought to have taken through a myriad of supposed clauses.

Perceptions of unfairness of contractual agreements in the PPP are not isolated to the findings of this study. Many studies have made similar observations (Chen & Hubbard, 2012; Demirag et al., 2012; Landow & Ebdon, 2012; Boyer, 2016). Related to the provision of support to the private sector partner, for instance, Boyer (2016) observed that the challenge of PPPs is mainly that public sector protects, guarantees, and subsidizes particular financial and project –related risks in order to encourage private investment in infrastructure. Specially that the public sector has made errors in overcompensating the private sector for risk premiums instead of guaranteeing that the private sector actually bears the risks in which it is paid to assume (Boardman et al., 2005) or to ensure that the risk transfer indeed generates the incentives to improve public service delivery (Hart, 2003; Acerete et al., 2010; Boyer, 2016). This also aligns with the observation by Demirag et al. (2012) that contrary to the view of privatization proponents that argue for ‘optimal’ allocation of risk in PPPs, in reality the private sector is more adept at identifying and distributing risk in ways that maximize its returns on investments regardless of how the allocation impacts the service quality. Chen and Hubbard (2012) associate this to power relations in which the party with more power tends to move shift more risk to the party with the least power. In the context of the negotiations to this partnership noted earlier is can therefore be attributed that the inequalities that the interviews noted could be traced to power imbalance at the precontractual phase that was characterized by limited public capacity, inexperience and the pressure for public service delivery.

8.2.6: Operational Interferences from External Actors

The interference by the external stakeholders is yet an important finding of this study. The analysis reveals three key streams of interference that require further elaboration in this chapter including a) interference by individual policy actors, b) interference by organizational actors and c) the interference by customers.

Firstly, individuals with leadership responsibility both civil service employees or as elected leaders have interest in ensuring the needs of the constituencies are met. The nature of service provided by the partnership is very integral for the routine functioning of the many public organisations. Before the involvement of the sector and the concession in of the assets to private management and operations, the provision of the electricity was an intra-government service where it was possible for one leader of the government department to request other for continued supply dispute, for instance nonpayment or delayed payment. In the past this characterized the operations in the sector with government department defaulting on payment still be able to receive the service from ‘sister department’ to continue operation. With the changes and introduction of private management, such a culture is largely untenable as the private operation of the distribution service. In fact the private operator seeks for timely payment and will utilise its right under the agreement to terminate services. The analysis suggests that this change in approach and the loss of authority remains and outstanding challenge as the public leaders attempt to maintain influence over the decision in the interest of their sustaining historical relationship. In attempting to maintain the relationship status, some leaders attempt to obstruct independent commercial processes of the private operator in different, by making public statements that attempt to undermine the operator as well as attempting to influence internal decisions processes.

The interference of individual political actors in the post contractual operations of PPPs has also been noted in some studies. Particularly, a number of studies have noted the challenge of political salience and 'political interest capture' (Birner & Wittmer, 2006b; Johnston & Gudergan, 2007c; van den Hurk & Verhoest, 2015). In analyzing the failure of the Cross City Tunnel toll way in Sydney, for instance, Johnston and Gudergan (2007c) that failure in the PPP was occasioned by unforeseen political risks that occasioned the breakdown of the social contract. In particular they note that actors inevitably tend to bring their own established and different social legacies and organizational logics with them into the created PPP environment, in which case the potential for conflict becomes apparent because the project cannot proceed rationally as planned.

Similarly, Birner and Wittmer (2006b) notes that 'political interest capture' can occur where the where political interests are not congruent with public interests. In this case it can be said the analysis substantially reveals some of these interest clashes where some political leaders facilitate the undermining of a policy arrangement to suit their narrow political interests with the electorate. In fact Birner and Wittmer (2006b) note that such political interest capture can take many forms including tradeoff between short term goals and long-term goals, as well instances in which political decision makers have the incentive to act preferentially by seeking for preferential conditions for specific groups of people. Incidences of such preferential treatments have been illuminated in this study and with many empirical examples such as political leaders obstructing the execution of commercial process such as disconnection of electricity from defaulting client or leading public protests and demonstrations against the private operator and calling for termination of agreements without due attention to particular terms and conditions of the agreement informing the activities of the private operator.

Secondly, the interference by organizational actors with the partnership processes and decisions represent a key dimensional challenge. Besides the peculiar acts of individual actor, composite policy actors like departments of governments pose an important challenge. The analysis reveals particularly the primacy of parliamentary processes as integral at the post contractual phase. As representative body parliament has instituted parliamentary inquiries into the operations of the partners and particularly in to the operation of the private partner. The particular sourced of the parliamentary inquiries have been perceived role of the private partner in the increase of the tariff in the country. The conclusions of some of these inquiries suggest a skewness to perceived source of the problem of tariff and also reinforce perception of contractual inequity. For instance, report on the tariff reduction by the interim review committee in 2009 not that:

> *Indications are that the reforms were done hurriedly. Due to the inadequate experience of most of the Government officials, the Government got saddled with poor contracting*

> *whereby contracts signed with developers, especially during the electricity crisis period, included unfair clauses that exaggerated costs, collective risks and provided excessive incentives e.g. for UMEME limited and other licensees/concessionaires. Attempts at amending the initial agreements did not address the anomalies (Interim Review of Electricity Tariff Committee, 2009).*

The inquiry then recommended that the solution would involve renegotiation of the contracts signed with private. The practice and the approach of these inquiries unfortunately suggests lack of independence with completely no representation of the private actors in the on the committee. It also appears to reflects little appreciation of the workings of the sector. Particularly, it is important to note that while the parliamentary processes have been geared towards understanding sources and cause of power tariffs increases, the working assumptions appears to be that the tariff increased following the engagement of the private actor. There is little or no strong basis for conclusions. It appears this set the foundations for the relationship in which parliament has persistently called for the termination of the partnership in most of its subcommittee reports.

This observation aligns with earlier observations in the literature relating to opportunism both by the public sector partner and the private sector partners as well as the observation made on political interest capture(Johnston & Gudergan, 2007c; Spiller, 2013; van den Hurk & Verhoest, 2015; Stafford & Stapleton, 2017b). As Stafford and Stapleton (2017b) that despite, in the context of hybrid PPPs, governance arrangements are ideally expected to reflect the requirements, aspirations and sanctions of both sectors, it not clear how structures and mechanism can enable governance across boundaries thus such is hardly a reality. In fact Spiller (2013) contends that the two important hazards for public and private interaction is the government and thirty party opportunism. Spiller observes that these two in interact to make regulatory processes and outcomes more rigid, formalistic, and prone to conflict than envisioned by relational contracting. Third party opportunism, he argues, thrives in an environment of political contestability and fragmentation in open access states, where oversight bodies and external stakeholders expect to challenge decisions (Ahadzi & Bowles, 2004). This is explicit in this case with eh parliamentary action of seeking to terminate and or challenge contractual decisions when they are perceived not to effectively serve specific interest or such interests have changed.

Thirdly, the end-user behavior is an integral point challenge in PPPs. In analysis identifies two key aspects relating to the end-user. The initial one is the question of affordability of the service. This is integral to the perception and approach to relationship. It must be noted that for many years while the electricity service provision was being provided directly by government, a lot of acknowledged inefficiencies masked the reality of affordability of the service. In particular, both the acknowledged high rates of technical and commercial losses as well as government subsidization of the same veiled the reality and the underlying reasons for such inefficiencies. None payment of billed electricity and technical losses, some of which through illegal connection compensated in many in a way for the inability of the end-user to pay for the electricity. Similarly, it can also be observed that similar ways of access altered the perception of payment of electricity. With the improvement in the system and enforcement by the private operator to cut the losses, along with government reduction in the subsidization, the reality of the cost of electricity is felt directly by the end-users. This causes apprehension among end-users as the real unaffordability reality is brought to fore.

The finding on the efficacy of affordability as an integral issue in the relationship with the end-users is not isolate to this study. A number of other studies have pointed out the centrality of these issues in as far at it the influences the behavior and interrelation between the actors in partnership (Batra & Menz; Hayllar, 2010b; Fombad, 2015; Leviäkangas et al., 2015; Hueskes et al., 2017). Citing the experience of South Africa toll road, Fombad (2015) observed that affordability would one of the top reason that would prevent the commuters from using the road. In fact the cited case of the Given that the Gautrain rail in South Africa, is observed that given that fare is unaffordable to the poor, it stood as to reason that has rail did not contribute to the decreased traffic congestion.

Moreover, Hueskes et al. (2017) points at affordability as elements of emancipation and equality that ought to be taken into consideration which is consistent with the observation of this study of this study in which the challenges of affordability appears to be more prevalent among the rural poor. Indeed in this study interviews illustrated situations in which the higher the tariff went the more the commercial losses increased as there was a tendency for user to resort to illegal means to access the electricity. Unlike in some sector, say road in which there might an option for use the public road, in the electricity service in in Uganda the end-users is almost left with no viable option.

The identity of the end-user appears to another important aspect leading to up end-user interaction challenges. The commercial approach to end users as customer against the public policy consideration of end-users citizens as aspect that appears requires more adaption. The commercial treatment of end-users is a largely new approach to ordinary citizens that have been used to public goods and service offered through taxes or with very highly subsided costs rather than direct payment for public goods and services. In other words the adaption to the private provision of the public is still low and the analysis suggests that many end-users are yet to accept and get used to the culture. This is probably an expected challenge considering the model of PPPs in service provisions is new in Uganda and has never be applied to common use services such as electricity.

This equally is not a peculiar challenge as the literature has noted a number of drivers to stakeholder or public opposition to PPPs such as fleeing from excessively high tolls, perceptions of disproportionate allocation of public resources (Chen & Hubbard, 2012; Fombad, 2015), unilateral government decision to adopt PPPs (Hayllar, 2010b). Also, illuminating the Swiss context, Hofmeister and Borchert (2004) posited that more contested an area of public service is the more PPP will face opposition. They noted the traditional 'public markets' broadcasting or postal services or electricity or waste management as some of the examples. They noted that in such contexts of 'high politics', that is, 'when strategic decisions about policy alternatives are necessary, PPP may fail completely as long as the dominant political thinking cannot be changed' (Hofmeister & Borchert, 2004:224).

This subsection has provided an elaboration of important challenges at the post contractual. Specifically the discussion of the important findings has been provided in the context of available literature. The second part of this discussion focuses on the key response mechanisms by the PPP actors to respond to these challenges. The discussion in the applied strategies in shaped and premised on the institutional theory, particularly the new institutional theory as advanced in chapter three of this study.

Section summary

This section has provided a discussion on key post-contractual governance challenges faced by PPP actors in the context of available research and the assumptions of the institutional theory. In regard to research, the discussion points out a number of peculiar challenges and those that conform to findings in extant research. In context of theory, the discussion points to the nature of issues as both internal and external and spread across the policy, regulatory, legal, organizational and political realms of PPP operational context. From a guiding theory stand point, the discussion suggests that all the challenges and issues identified fit with the important assumptions of the nature of pressures faced organizational actors. The next section discusses the important findings on the response strategies adopted by the actors to respond to the post contractual challenges.

8.3: Post Contractual Responses Strategies

This section discusses the important findings on the strategies adopted by actors to respond to challenges experiences in the course of implementation of the partnership. In this section four sets of strategies are interpreted in the context of existing research and most specifically in the context of institutional theory. These include institutional complementation, partner's enforcement of contract safeguards, governments and development partners sector level support, and stakeholder education and awareness rising.

Table 8. 2: Summary of Key response Strategies utilized by Actors and the some key sources Providing the Research and Theoretical Context for Discussion

RQ 2: How do Public-Private Partnership actors respond to challenges at the Post Contractual phase of the partnership?	**Some of the important sources providing research and theoretical context for the discussion**
8.3.1 Institutional Complementation	(Hart, 2003; Sadran, 2004b; Spiller, 2008; Rufin & Rivera-Santos, 2012; Cohen & Boast, 2016; Stafford & Stapleton, 2017a) (Cohen & Boast, 2016; Hodge et al., 2017) (Hall & Taylor, 1996; DiMaggio, 1998; Nielsen, 2001; 2007) (March & Olsen, 2006; Olsen, 2007)
8.3.2 Enforcement of Contractual Safeguards	(Woolthuis et al., 2005; Li et al., 2010; Lumineau & Malhotra, 2011; Van Gestel et al., 2012; Schepker et al., 2014; Cao & Lumineau, 2015) Schepker et al. (2014) (Poppo & Zenger, 2002; Poppo et al., 2008; Zheng et al., 2008; Poppo et al., 2016) (DiMaggio & Powell, 1991; Chan & Ananthram, 2018)
8.3.3 Sector/Industry level Support by Government and Development Partners	(Hayllar, 2010b; Fombad, 2015; Leviäkangas et al., 2015; Hueskes et al., 2017)
8.3.4 Stakeholder Education	(Hudson et al., 1999; Löfström, 2010; Grossman, 2012a; Page et al., 2015; Boyer, 2016; Wilkins et al., 2016; Smeets, 2017) (Yoo et al., 2013; Wilkins et al., 2016; Cuganesan et al., 2017; Wilkins et al., 2017).

8.3.1: Institutional Complementation

The analysis revealed that actors made adjustments to the set of institutions in different ways as a way of complementing established institutions ability to address the challenges experienced. The existing institutions were mainly complemented in three ways. First, some contractual amendments were made following renegotiations processes that occurred mostly between the regulatory authority and the private partner. Secondly, the institutions were supplemented by developing of regulatory guidelines and protocols to clarify existing institutions and establish instructive course of actions. Thirdly, complementation involved developing new and inclusive structures that bring together relevant and influential actors at the sector level.

This finding suggests a realization by the actors of the inadequacy of the priori institutions, particularly the set of agreements executed at the formative stages, to responding to the emergent realities in the post contractual phase. Based on the nature of the specific response actions, the inadequacy suggested can be interpreted in three different but nonexclusive ways. The first is that the set of institutions, which in this case are the concession agreements, are not comprehensive enough to address all the important issues. Therefor there was a need to institutionally address the underestimated and unforeseen issues. As presented in the previous chapter, these underestimated and unforeseen issues mostly involved changes in expectations, and realities of different stakeholders. Secondly, specific actions also suggest that the institutions not sufficiently instructive and leave room of actor conflicting interpretations of the courses of actions. In other words, although it might not be possible for contract to articulate step by step instructive courses of action on all the issues considered, it is a realization in the context of post contractual PPP governance that such will require to be specificied in the course of interaction between partners.

Lastly, the inadequacy of institutions also relates to unrealistic inclusivity of instrumental actors in the partnership. It appears from finding that at the formative stages the instrumental actors and how they would affect the functioning of the partnership was not adequately articulated and if it was it was it was an important oversight not to structure their role in the partnership. In the previous section of this discussion, the impact of the value actors was specifically noted along with the limited controllability within the provisions of the contract. It is a strong suggestion of this finding that establishing sector wide structures, for instance the grid code committee, sector working group and system planning and coordination committee, is the direct attempt to mainstream other actors and exert some control over their actions.

The finding of this study on complementation of existing institution matches with previous research as well as fit with the theoretical lens applied in this study. In regard to extant research, the suggestion of this finding reinforces many prior studies that have articulated the inherent incompleteness of contracts as governance instruments (Hart, 2003; Sadran, 2004b; Spiller, 2008; Rufin & Rivera-Santos, 2012; Cohen & Boast, 2016; Stafford & Stapleton, 2017a). Scholars have attributed to the incompleteness to many factors but most notably to on the difficulty to accurately foreseen all possible circumstances and complexities (Sadran, 2004b). In fact, the reality of inherent incompleteness of contracts is subject of mixed scholarly opinion. Some scholars arguing that there is nothing wrong with the incomplete contracts as they can be used to create incentives for the private sector provided the public sector is equipped to negotiate and monitor large contracts, ongoing commercial collaboration and dispute resolution as well as including regular updates (Cohen & Boast, 2016; Hodge et al., 2017). Other posits that incompleteness exacerbates partner opportunism with partners using or attempting to utilise contractual gaps to extend self-interest, often at the detriment of the other. Therefore, as some argue ‘these complex and lengthy documents must attempt to cover all potential aspects of the project over its long life’ (Stafford & Stapleton, 2017a:383). The resolution of this contest is not possible within the context of this study, and it is not attempted, instead these studies only serve to demonstrate the incompleteness of contracts as a context on which this finding premised.

In regards to theory, particularly the institutional theory that orients this study, the finding of institutional complementation as a response strategy by actors matches with the concept of social construction of institutions (Hall & Taylor, 1996; DiMaggio, 1998; Nielsen, 2001; 2007). As detailed in the earlier articulation of the theoretical framework for this study, by social construction of institutions, the practices and/or actions of actors emerge from interactive processes, where actors share with each other interpretations to problems and ways of solving them. The actions undertaken in this study suggest that the actors jointly undertook the process of developing complementary institutions through renegotiations and execution of amendments of existing institutions, development of guidelines and protocols, and establishment and operationalization of actor-inclusive structures which reflects interactions between actors.

In addition, the enactment of these complimentary institutions suggests that actors reached common understanding of problems and necessity of enacting new institutions as solution to the problem. Although as noted earlier, there exist perceptions from the public sector actors of the inequitable terms of the contract – which would suggest that the public sector would have incentive to push through or impose the changes with little or no acceptance from the private sector partner. However the likelihood imposing such changes to agreed set of institutions by the public sector without proper involvement of the private partner in this case is low. With the elaborate provisions in the distribution support agreement to safeguard the private partner from political and regulatory risks, wherein these institutional changes would belong, it would be very unlikely that the institutional changes if imposed would go unchallenged through the redress mechanisms enshrined in the support agreement as well as with the international agencies that guarantee the investment such as Multilateral Investment Guarantee Agency (MIGA) which guarantees the investments in this case study project. In that regard, this response strategy also fits with a further assumption of social construction of institutions in which actors are driven more by the 'logic of appropriateness' rather than vested self-interest. And as such act in line with embedded practices of collectivity and mutual understanding of what is true, reasonable, natural, right and good for a specific situation (March & Olsen, 2006; Olsen, 2007).

8.3.2: Enforcement of Contractual Safeguards

The analysis indicates that actors apply the safeguards provided for in the available set of institutions to respond to some challenges experiences. As indicated in the preceding chapter, the safeguards guards enforced include the partner's right to seek legal interpretation, withholding of services to the end users, withholding of payment to value chain actors, and seeking recourse to buyout amount. Three important can directly be deciphered from this finding important are noticeable by the choice of strategies.

First, this finding suggest that in the context of this case, only formal rules based on the contract are enforced to addressed the challenges. Although, as noted earlier, the institutional context that shapes the operation of this partnership involves a number of formal legal, policy and institutional frameworks, it appears only the formal rules based upon the contract executed were utilized to respond to the challenges. Although in the case of the Uganda the alternative legal and formal policy framework was developed after the case study partnership was formed 2004, and therefore could provide an explanation to the reference to being made only to the provisions of the contract. In reality, sectorial level instruments designed to regulate the partnership have existing since 2001 following the enactment of the law that created the Electricity Regulatory Authority. But, an almost entire application of safeguards only based on the contract is not a peculiar finding. An extant body of research has emphasized the use formal control (over informal control) and the particularly the use of the contract (as opposed to social relationships) as the main governance instrument in the context of partnerships and alliances (Woolthuis et al., 2005; Li et al., 2010; Lumineau & Malhotra, 2011; Van Gestel et al., 2012; Schepker et al., 2014; Cao & Lumineau, 2015). Li et al. (2010) for instance examined the antecedents and the nature of formal and social control mechanisms and concluded that the length of the cooperation and the institutionalization are the most important determinants of the choice of the control mechanisms. Given that the case study partnership is a 20 years concession, the tenure of the partnership could be likely explanation. The other plausible explanation is the perceived low efficacy of social control. As Schepker et al. (2014) explain, in the world far removed from 'moral utopia' safeguarding through contracts becomes imperative.

Secondly, the analysis also reveals the private partners (more than the public sector actors) exercised contractual based rules. In the responding to specific challenges relating to any of the stakeholders, the private partners appeared to refer to the provision of the contract to seek resolution. In fact in most of the solutions involving the application of the contractual provisions as remedy were applied by the private partner. This element of finding is particularly peculiar. While most of the research reports interpretation difficulties that might occur in applying the rules based on the contract, this study shows that in this case only the private sector partner tended to rely on the provisions. In fact on enforcing this provision the occasionally direct opposition to action was expressed by the public sector actors. A case in point in noted in the previous chapter and in the preceding section of this chapter in which the public sector would attempt to deter the private actor from enforcing the rule such as in withholding services and payments due to the other value chain actors. This could suggest two things, a) the disproportionate level of confidence that different partners have on the contract to safeguards their interests – already discussed in the previous section, and b) a preference of public sector actors to address issues more relationally and socially than through strict adherence to the formal and contractual rules. Although the noticeably scant exercise of contract based rules by the public sector actor is peculiar, the encouragement and often the preferences of the public sector actors of social control and relational mechanisms is an established finding (Poppo & Zenger, 2002; Poppo et al., 2008; Zheng et al., 2008; Poppo et al., 2016). In fact over and above relational approaches being in some instances, Zheng et al. (2008) note that the relational intentions of all parties frame whether the contract is interpreted as a written sign of distrust or commitment.

Thirdly, the mode of exercise of the safeguards suggests actors occasionally actors choose institutional responses that enable them to differ response action to a future date and to future circumstances. The analysis suggest that actor chose to avoid paralyzing operations, a) as lengthy and complex discussions to resolve the impasse can take a long period of time and b) creating distractive conflict between actors. As indicated in the previous chapter, the provision on the buyout amount in which the government pledges to repay the investment not recovered during the partnership tenure to the private partners enable private partners to occasionally opt out of pursuing conclusive responses. The analysis revealed that this action has been adopted by the private partner particularly on challenges regarding the investments. Two particular issues relating to the investments have elicited this response. The first relate to the agreements on whether or not certain expenditure can be recognized as investments to earn a return. The second is on contestation that arises on the amount as differences often arise in the process of investment verification. The explanation of the nature of differed action as response and its drivers only serve as context but the action by the private actor suggests two important issues. First is the disproportionate power between the private actor on one hand and the public sector actors on the other wherein the actor with low authority has limited options to actively pursue remedies. It appears in the case of study, the private sector perceives itself to be operating in an undermined contractual context and tends to finds its self occasionally needing to withdraw from aspects that will lead to active conflict. It could be argued that perhaps it is not the loss of power by the private actor (through undermined contract) that such a response but rather the private actors understanding that the ideal that sacrificing their self-interests is best for the partnership. But interviewees reported incidences in which the privates sector has attempted to seek court resolutions in the past.

This action also suggests that the private partner is locked in the partnership. Particularly they believe that the option to stay in is better than seeking complete termination. As a result to keep afloat, the private actor opts to make concessions than to pursue rigid and fixed options. Overall, the enforcement of contractual safeguards reinforces prior findings on the primacy of formal rules and of the contract as a main control instrument.

In regard to this finding fit with the institutional theory, it can be argued the strategy to enforce the contractual provisions as responses strategy match with claim of institutional theory, particularly coercive isomorphism and (DiMaggio & Powell, 1991; Chan & Ananthram, 2018). By determining the response actions to challenges based on the contract, the actors demonstrated conformity with established institutions.

8.3.3: Sector level Support by Government and Development Partners

The analysis indicates that for some of the challenges faced in the partnership the response has been for external support by the government and development partners to facilitate investment at the industry/sector wide level. The evidence indicates that all the specific actions under taken involve investments aimed primarily at reducing the cost of electricity in the country. In particular, government and development partners have to make investments on a number of the aspects of the value from production, transmission and to distribution, directly subsidies the tariff, invest in special projects especially to improve access, offer risk guarantees for investments made, and provide concessionary funding. This finding in the context of the study suggests three important things.

First, the suggestion of this findings is that there is an affordability for the service for the end users whose that is reflected by the by some behaviors that affect the operation of the partnership. The distribution partnership is placed at the front of the service value as such the reaction by the end users is faced by the distribution partners, particularly the private sector that is responsible for the operations. Reducing the tariffs requirement the overall cost of production and delivery of electricity to be reduced for which the distribution partnership only contributes in part. The failure to made necessary investment will imply that the partnership will continue to be confronted with challenge driven by end users inability to afford the service – a public policy problem that only manifest managerially. In fact the primacy of service affordability in privately operated public asset and services has been emphasized in many previous studies (Hayllar, 2010b; Fombad, 2015; Leviäkangas et al., 2015; Hueskes et al., 2017). The government attempt in this case is to provide intervention that facilitate in reducing the cost and therefore the tariff paid by the end users.

Secondly, the finding suggests the primacy of the government role in a broader macro context in which the partnership operates. In particular, the involvement in of the government to source and provide for the investments necessary to lower the costs means that the private sector partners were not able to source low cost finances to invest in the sector. In fact the investment involvement of government is highlighted by many interviewees that noted that it would be easier for government to source for low cost finance for investment as compared to government. Primarily because of the risk perceived of private investment as opposed to government borrowing.

Thirdly, further suggests that that a more active role of the government is still necessary effective operations of the PPPs. In particular, that policy level rather than micro managerial responses might be useful to sustainability address micro project challenges. In this regard this finding challenges two important observations in the literature, first on the nature of government role and the second on the PPPs as tools for access the necessary resources required for investment.

Extant studies note that in the context of PPPs the government role is mainly to provide an enabling policy environment for the private sector to produce and deliver services. The reality depicted by this finding is rather different with the active role of the government is aspects necessitated by policy level conditions. In theory, it can be assumed that the private is capable of mobilizing the resources needed but it is also evident that cost at which those resources are mobilized and made available has important implication on the cost of services and as such the access. In this regard, this strategy suggests that the reconciliation of commercial approaches and interests on one hand and the public policy outcomes on the other then necessitates and reintroduces the active role of the government in the partnership. For instance, in this case, it is clear that an important decision such as on the end-user tariff is very contingent upon the decisions on financing made by the government both direct (by paying subsidies) and indirect (through investment). In other words, as contrary to the extant supposition in management of PPPs, the operational role of government remains very active in important ways.

In addition, this finding challenges the rhetoric of PPPs as tools for mobilizing the necessary for provision of public goods and services. What this finding points is that government expectation of private sector to be able to provide the resources is challenged by contextual considerations. While the government requires finance for investment, such resources should not disable access of services. It can therefore be argued that if the private sector is incapable of mobilizing cost effective resources then in effect it is not able to mobilise resources. The actions of the government and development partners in this case depict that reality where, as illustrated, government and development partners have had to make investment directly to reduce the effects of commercially sourced resources by the private sector.

In relation to institutional theory, this finding also matches with the assumptions of the socially constructed actions. As noted, socially constructed responses are informed by a number of aspects including actors shared interpretation of problems and their solutions, the actors world view, a focus on the macro level processes and the 'logic of appropriateness'. All the examples of these interventions by the government and development partners indeed align with those assumptions. It is likely that public policy level nature of the challenges addressed by strategy is could not be anticipated and at the formative phases of the PPP. Most importantly, it is most possible to accurately infer macro level conditions that will impact on the important aspects of the partnership such as the level of affordability or access needs of the service.

Moreover, it is difficult to anticipate the public policy ambitions of the government as these can be driven emergent factors. Therefore the possibility of foretelling and providing for such occurrences at the institutional level, such as in contract remain low. Where there are attempts, the reality challenges their efficacy. A case in point is the decision to attempt a full cost recovery through tariff that led to public outcry on the tariff forcing government to continue paying direct subsidies and pay rebates to some end users.   In all, relation to theory, this finding suggests that government and development partner responses were born out of the situational interpretation of the problems and what needed to be done rather an application of a predetermined course of action engraved in the existing institutions such as the contract, compliance with professional standards or mimicking of any best practices.

8.3.4: Stakeholder Education

In the earlier chapter, it is evidenced that part of the challenges that manifest are a result of limited stakeholder knowledge and understanding about the partnership which resulting in the mismatch of expectations between the partnership stakeholders. The manifestation of the mismatch is two levels, the first is at the internal between the contractual partners and the second level between contractual partners on one end and other value chain actors and other external stakeholders. The analysis of data reveals important approaches that actors use to deliver different types of information to improve understanding of the partnership among different stakeholders.

The analysis indicates that to ameliorate some of the challenges faced by the partnership at the post contractual, provision of information to stakeholders is one of the primary strategies adopted by the actors. The education of stakeholders takes a number of different forms but most importantly through developing open reporting systems, consultation and involvement of stakeholders on issues of crosscutting significance, and enabling participatory implementation of projects. The idea in this strategy is to create an opportunity for stakeholder construct informed opinions, judgments and actions based on an accurate understanding on the important realities of the partnership. It is clear that this strategy is premised on the understanding that some of the challenges faced result from the stakeholders limited information about the partnership and as such the limited understanding scope of responsibility that the partnership hold in regard to service provisions as well as the relationship with other actors in the sector.

The application of this information related strategies suggest a common understanding and interest by both the regulatory actors and private sector partners. Specifically, both the private partners and regulatory actors have attempted to ensure information is provided to the different stakeholders in joint and distinct fora. Joint education programmes for instance by the regulatory authority and the private partners have been facilitated targeting different stakeholder groupings such as individual end-users, policy makers, user representatives. It appears from the evidence that the end user strategies are geared towards providing information ensuring that the end-users understand different service provisions protocol such as tariff determination and administration. The strategies also focus on ensure that end-users understand their obligations as it relates to the services provided.

The analysis also suggest that informational provisions strategies adopted for other values chain actors and policy actors centrally intend to clarity the different actor obligations and commitment made in relations to the partnership between the public sector and the private partner. It is particularly critical to understand that the PPP model is new in the Ugandan context and no institutional and organisations arrangement have not existed to provide clarity on the model save for the model actors and partners themselves. As such at all different levels, the lack of understanding and acceptance of the private provision of public services is evident.

The capacity (and particularly knowledge gaps related) difficulties in partnership is an issue of articulated by many scholars of in interorganisational, cross sector partnerships and PPP research (Grossman, 2012a; Page et al., 2015; Boyer, 2016; Smeets, 2017). Boyer (2016), for instance, explains that Public infrastructure projects of all forms face public resistance, due to the wide spectrum of constituents affected by their development. And in the particular case of PPPs additional challenges are bound in building and sustaining public support because of the role that foreign companies often play in the delivery of services and the introduction of user fees that may not have been in place before. This realities in the case of PPPs are often exacerbated as many of the details of a PPP are not disclosed until after a private partner has been selected and the project operational. Similarly, Grossman (2012a) articulate the challenges related to information asymmetries and diverging preferences that blur responsibilities and tend to move the delegation instead to abdication and shirking of responsibilities by both the private and public actors.

In this particular case, the analysis indicates that concerns on information non discourse as well as perception of actors abdicating and shirking responsibility are abound and appear to be underlying circumstances for some of the challenges. But the nature in which partners execute this approach of information sharing appears to be deployed in two main alternative ways. First, it appears that from the public sector actors, it is the regulatory authority making attempts to provide information and clarity with no input from the would be substantive public partner, UEDCL. The approach appears to aim at creating image of transparency of the regulatory in general rather than a focus on the partnership. In fact the partnership is mentioned consistently and addressed more as independent private actors only with delegated and regulated authority rather than partnership with multiple responsibility lines. The regulatory authority also provides information on the basis of institutions developed by its self rather than all institutions relevant for the functioning of the partnership, including contract.

And most of this information is provided inform of documents uploaded on the website. This appears to be the first alternative.

The second information sharing is conducted by the private sector partner, UMEME. This appears to focus on commercial stakeholders and uses commercial approaches to reach the stakeholder. While it projects the commercial aspects of the company, the approach does not answer concerns it drive difficulties which in fact, as the preceding sections illuminate, are founded on perceptions the contractual terms. For instance, the private partner does not address issues of scope, issues distribution of responsibility and tariff which appear to premise most of the challenges. The inability of either party to delve into the actual contractual commitments means that the challenges, as they relate to external stakeholders will mostly likely remain as they cannot be side stepped by commercial approaches or selective disclosure and as a result reinforces the perceptions already formed by some stakeholders. In all, the actors focus on providing information to the stakeholders but it appears the provision of information does not address the central premises of the challenges – which are centered on contractual provisions - yet no actor appears to provide specific address.

In spite of that, plugging of information gaps is critical as the different actors responsibilities are clarified to many stakeholder that may not be privy to the workings and commitments of the partnership and by so doing actors can still be held responsible on one hand and on the other hand no actor takes responsibilities for actions they should not be held responsible for. In addition the information provision helps to manage expectations of different stakeholders or atleast synchronize the diverging expectations - some of which are ill informed because of no or poor information. Education of stakeholders by sharing of information is not a peculiar to this case study. Extant research in PPP management and other interorganisational research have pointed to the primacy of building stakeholder capacity broadly (Hudson et al., 1999; Löfström, 2010; Wilkins et al., 2016) and specifically on information sharing for successful partnership (Yoo et al., 2013; Wilkins et al., 2016; Cuganesan et al., 2017; Wilkins et al., 2017). The sharing of information has particularly been associated with many different facets of collaboration including for achievement of outcomes (Wilkins et al., 2017), creating clarity in expectations to enable each partner to know what is expected of them (Ryan & Walsh, 2004), decision making (Cuganesan et al., 2017). In other words, Information issues including communication and engagement with stakeholders are raised as a way to enhance collaboration in the similar way that this investigation suggests.

Besides fitting with the extant research, the nature this response strategy fits two important elements espoused the new institutional theory, in particular the strategy being both a socially constructed, coercively and normatively isomorphic response. As socially constructed strategy, important elements of this response strategy depicts actors the actors base on shared interpretation of the problems and crafting solutions, focus on macro level rather than micro level processes as well as informed by what is considered appropriate action. For instance, the execution joint stakeholder consultation by the regulatory authority and UMEME with the different categories of end-users suggests that both the regulator and the private partner determined it was the appropriate course of action to take. Similarly, actor’s participatory execution of joint projects suggests that the actors found it imperative to have common areas to exchange ideas and address common challenges across the sector.

The elements of this strategy further suggest coercive isomorphism particularly as it relates to sharing of information and engagement with different stakeholder as mandated by the institutional framework. For instance, the Auditor General reports to parliament of Uganda on its findings and queries to the committee of Parliament responsible for Commissions, Statutory Authorities and State Enterprises (COSASE) and subsequently the committee of parliament can invite the relevant actors to respond to the queries. In addition there are legally mandated declarations like the publication of audited accounts in which information is shared with the different stakeholder to ensure the stakeholders understanding and appreciate the courses of action of the partnership and are able to input in the decision making process as might be necessary and possible. The partnership actors acting together or separately have to comply with these kinds of mandated information sharing and engagement requirements.

Section summary

This subsection has provided a discussion on important response strategies adopted of PPP actors on post contractual governance challenges. The discussion has been undertaken in the context of the available research and institutional theory as guiding theory for this investigation. As has been clearly depicted in the discussion, some findings are peculiar but most important strategies applied by actors are match with some of the available research evidence and are consistent with some assumptions of the institutional theory. The implications for practice and theory of these findings are detailed later in this chapter. In the next section the important limitations of this study are delineated.

8.4: Chapter Summary

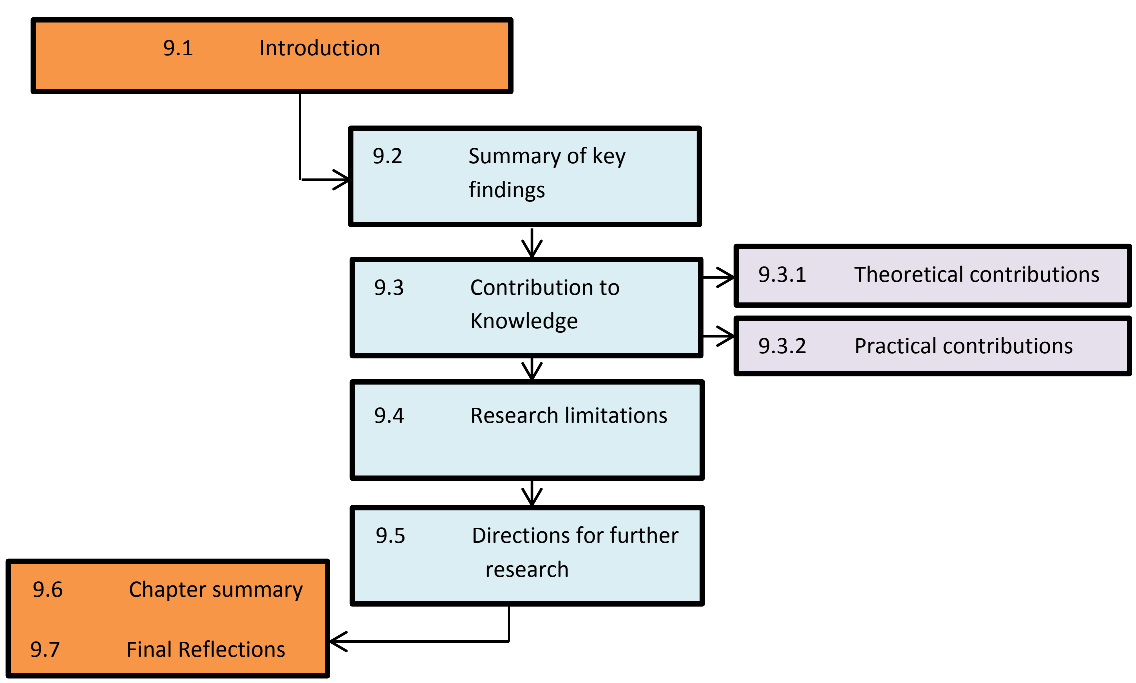
This chapter has provided a discussion on important challenges faced and strategies utilized by the actors. In interpreting findings in the context of available research and guiding theory applied in this study, the discussion has delineated the peculiar and consistent findings on challenges faced and response strategies adopted by the PPP actors. In regard to challenges, the primacy of policy, regulatory and organizational related issues including conflicting courses of action and priorities, responsibility of integrated value chain actors, conflicting identify and role of public sector partners, institutional supremacy contests, perceptions of contractual inequity, operational interferences from external actors has been established. In regard to the responses, the analysis suggests the preeminence of socially constructed and coercively isomorphic response of actors to the challenges including through institutional complementation, enforcement of contractual safeguards, sector level support from government and development partners, and stakeholder education. In the next chapter provides the study conclusion and contributions.

CHAPTER 9: CONCLUSIONS AND CONTRIBUTIONS

9.1: Introduction

The preceding chapters Seven, Eight and Nine presented a comprehensive analysis and discussion of the thematic findings on post contractual PPP governance challenges and actors response strategies in the context of Uganda Electricity industry case study. In this final chapter, findings are highlighted as they relate specifically to the central research question and serves a twofold purpose (a) to illustrate the extent to which the research has addressed the research question and how fully the investigation met the research objectives and (b) to outline the contribution that this investigation makes to the body of knowledge. In addressing this purpose, the chapter begins by highlighting the key research findings and then discusses how well the key findings and conclusions answered the research objectives. The chapter then demonstrates how the study has contributed to the extant body of knowledge in the areas of theory and practice. The last section of the chapters describes the research limitations and outlining suggestions for research. The figure 9.1 provides the structure of the chapter

Figure 9. 1: Outline of the Conclusion and Contributions Chapter



9.2: Summary of the Key Findings

Given the twofold nature of the central purpose of this investigation, the summary of the findings is presented accordingly. In that regard, there are two sets of key findings (1) on post contractual challenges faced by PPPs and (2) on the actor's response strategies at the post contractual phase of implementation of the PPP. The structure of the presentation is not intended in a corresponding format as it is acknowledged that one or more strategies can be used by actors to respond to any one or more of the identified challenges.

9.2.1: Post Contractual PPP Governance Challenges

Conflicting Courses of Action and Priorities

The study showed ongoing differences on the courses of and the priorities among principal PPPs partners. The nature of conflicts on courses of actions mostly revolved around how the private sector partner wishes to do improve the service against what the regulator believes needs to be done. It is clear from the findings that in the case study the conflicts of courses of action always set the regulator against the private sector partner much more than the public sector partner partly because the two actors appeared to derive authority from two different sets of institutional frameworks, the contract and regulatory licenses for the private sector partner and regulator respectively.

The study also shows that differing priorities is an area of conflict, again between the private sector partner and regulatory authority. This is most prevalent in regard to the investment decisions. In particular prominent disagreements are on how much the private partner can invest and in which areas to make investments. Since all investments made by the private sector earn a 20% net return, it appeared from the interviews that the regulator was more concerned with impact that investment would impose on the tariff while the private sector needed to make investment to be able to earn a return – which in essence underlines the differences in different actors interest and preferences. It therefore appeared that during the pre-investment and post investment verification exercises conducted by the actors, the question of whether or not investment plans and/or investments made are priorities was mostly informed by the cautiousness of the regulator to ensure that the tariff does not become 'unmanageable' for the end-user rather than on a firm belief that the investments are not priority.

Responsibility of Integrated Value Chain Actors

The study also shows that highly integrated nature of the service offered appears to challenge the important decisional and control elements of this partnership. The fact is that while the formerly vertically integrated and centrally administered service was unbundled into three separate public companies, the integrated nature of the service remains very interdependent and requires seamless interactions between generation, transmission and distribution component. In reality though, harmonizing the decisions of three distinct actors without a common institutional remains a challenge the since the operational control instruments, processes and priorities are not harmonized. This reality transcends most of the commitments made between the partnership agreements establishing the distribution concession – an area that has required consistent attention of actors.

Conflicting Identify and Role of Public Sector Partners

The research also shows that ambiguous of the identity and role of the public sector partner in relations to the partnership. In the first place, there is the lease and assignment agreement wherein the government holding company transfers the electricity assets and infrastructure to the private partners, in the second place there is distribution support agreement where in the central government through the Ministry of Finance and Economic Development makes support commitments (guarantees) to private sector, and then in the third place there are operating licenses issued by the regulatory authority up on which the Regulatory Authority establishes independent oversight. The intention at the time notwithstanding, it appears these all create ambiguity on who the actual public sector partner is and nature of their role.

Institutional Supremacy Contests

This challenge relate to the preceding one. The study shows that there is contest of institutional supremacy particularly involving the contracts (lease and assignment agreement and distribution support agreement) on one hand the operational licenses issued by the regulator on the other. The actors appear to inform their actions on different sets of institutional frameworks and where any such are in conflicts the establishing a common ground becomes a challenge. In particular the study shows that the actions of the regulator that impact on the operations of the partnership is mostly informed by the provisions of the regulatory institutions such as licenses issues. On the other hand the private partner bases the actions on the provision of the contracts signed yet the instances of contradiction – both interpretatively and substantively are common. Interpretively, the regulator and the private sector partners appear to interpreted the provisions different mostly because the regulator interprets the contract in the context of regulatory instruments that it issued while the private partners interprets the regulatory instruments in the context of contract. Substantively, some aspects on some aspects institutional frameworks carry distinctive provisions.

Perceptions of Contractual Inequity

The study further shows that there are perceptions of contractual unfairness among the public sector partners. The perception appear to stem from the thinking that the time of the negotiating and concluding the contract, the public sector was ill equipped to negotiate fair terms with an experienced and technically well-equipped team of negotiators representing the private sector actors. Three lines of public sector inadequacies leading up to an perceptions of inequitable contract are particularly cited by the public sector and regulatory actor interviewees including lack of necessary experience with PPP transactions, poor quality of information on the industry realities at the time and the pressure by the services from government and end-users for the services. The findings suggest that these conditions made it impossible for the public sector representatives to properly negotiate fair terms. Of the contractual elements perceived as unfair, the most prominent are the net return on investment of twenty percent (20%) and the guarantee options made by the government in the distribution support agreement.

Operational decision making Interferences from External Actors

The interferences by individual actor in the operational decision of principal partner actor decisions is equally an important finding. The finding show that external actors acting in their individual capacity and as agents of composite actors tend to both obstruct the enforcement of decisions and or interference with the decisions making process through undue influence peddling. The obstruction occurs through forceful blockade by use of state instruments of coercion or issuance of personal threats to agents or employees of the partner. A regularly noted example is the obstruction of the private sector employees from execution of service disconnection to nonpaying or defaulting customers. Incidences are noted on the interviews of such occurrences perpetuated by the individual's actors some of whom are in public authority. Influencing the decisions or conditioning decisions of actors occurs through directives from individuals in public authority to cause the actor to make certain decisions.

9.2.2: Response Strategies

Institutional complementation

The findings show that actor's responses include complementation of existing institutions to ensure that they are capable of responding to the changing dynamics of the partnership in the course of implementation. In a particular, the institutions are complemented through renegotiations leading to contractual amendments, development of guidelines and protocols to clarify and streamline any areas of ambiguity in the existing frameworks, and by establishing inclusive and sector wide structures that bring together actors impactful to the partnership yet may not be directly part and parcel to the contractual agreements.

Enforcement of Contractual Safeguards

The findings also show that actors enforce safeguards in the contract as a response to the challenges. Although, as discusses earlier, this particular strategy appears to be mostly utilized by the private sector partners, the evidence indicates that the enforcement of clauses are not overlooked as response mechanism. Particular safeguards that the research identifies as being used include the partners, particularly private partners, exercise of the right to seek interpretation in the courts of law. In the evidence collated, the private sector partners have twice since the operationalization of the PPP sought legal interpretations in the court of law. It also important to note that in both instances the processes ended with both parties opting for an out of court settlement than determination of court. The other safeguards enforced include withholding of services to the defaulting customers and payments to the transmission company, adjustment of tariffs, and recourse to the buyout amount. These options are provided for and as when feasible to be applied they have been.

Government and Development Partners Sector Wide Support

The intervention of the government and the other development partners in the context of Uganda appears an instruments response mechanism. The support of the government, most of importantly, came through the broader wide support to the sector and in so doing helping to ameliorate some of the challenges in the internal workings of the partnership. The responses are provided in form of direct financial support in way such as direct government investment and refinancing of projects, direct subsidization of the tariff to reduce the end-user costs, provision of concessionary funding to reduce the cost of capital on necessary investments in the sector. The main indirect financial interventions include risk guaranteeing for investments and investment in special projects. Special project, for instance, have mostly included enabling access to populations that are out of the partnership scope.

Stakeholder Education

Developing the competence of the differences stakeholders to understand the dynamics of the partnership including the roles of various partners and stakeholders, the scope of their responsibilities, the different is shown as an equally important response strategy. As discussed in the last chapter, it appears that the some of the challenges experienced by the partnership are borne, in part, out of inadequate level of information and thus limited understanding of the partnership specifically but also of the working of the sector in general in providing the public service. As an address, the actors apply different mechanism including developing open reporting systems, consultation and involvement of stakeholders on issues of crosscutting significance, and enabling participatory implementation of projects. The idea here is that developing the competence of stakeholder to understanding the partnership, they will be form their opinions and actions in regard to the particular actors or group of actors and be able to appropriately apportion responsibility and necessary. Also, the stakeholder will be able to manage their expectations from one or more particular actors in the sector. In regard to the actors within the value chain, exchanging of information enables the actors to make operational decisions with knowledge of the effect the decisions might have on the operations of the other value chain actors. By so doing, enabling the individual value chain to have a holistic approach rather than narrow and specific considerations.

9.3: Contribution to Knowledge

This study's contributions are organized in three important categories including contributions to theory, methodological and practice.

9.3.1: Theoretical contributions

This study has made a number of both reinforcing and unique contributions to theory and particularly to the knowledge on governance of PPPs. First and foremost, this study responded to a number of calls to understand the post contractual governance of PPPs. As observed, many researchers are concerned that scholarly attention is focused on the formative phase of the PPP yet the success or failure actually happens at post contractual phase. In addition, scholars note that the pre-contractual phase is dominated by assumptions and predictions (as opposed to reality) that may not necessarily pertain once the PPP becomes operational for many reasons including underestimated complexities and other changes that are difficult to foresee. For these reasons scholars have calls to focus attention on the post contractual phase of PPPs have variously been made. In this regard, a focus of this study on investigating the governance of PPPs at the post-contractual phase in its self contributes in moving the scholarly discourse to an theme where there has been scant effort this far.

Secondly, given that study was shaped by extant research as well as analysed from a particular theoretical lens, specific contributions thus made. With regard to understanding the challenges faced by PPPs, this study has reinforced the significance of differences institutional logics that shape actors behaviors in the partnerships. This study has established that as in the, public and private actors differences in interests and priorities transcend precontractual processes to shape the routine behavior of different actors during the implementation phase of the partnership. In other words, notwithstanding the prior commitments made, commercial and public service interest manifest even at the cost of undermining the those commitments. This study has also reinforced that a contract is insufficient as a control instrument for PPPs. Infact this study has demonstrated that actors largely create and recreate many and important parameters of their routine relations at the postcontractual phase in order to adapt to inevitability of change and well to adjust the assumptions and predictions to reality. In addition, this study has approved the underestimation complexity that happens at the precontractual phase of PPPs. In particular, revealed that in the context of high interdependences such as in integrated value chains, the web of necessary interrelationships cannot be fully determined and the effects of different actors is different to estimate.

Two specific contributions to institutional theory are made. First, this study provides support toinstitutional theory assumptions that external and internal organizational pressures shape actors goals and directions – and that these pressures relate to policy, regulatory, organizational, and political issues. Secondly, in the context of postcontractual PPPs governance in Uganda majority of actors response to challenges faced were socially constructed and coercively isomorphic. Specifically, the responses were mostly socially constructed and a few responses coercively isomorphic There was insufficient evidence to suggest normative, mimetic isomorphism and culturally-cognitve response strategies. In the context of institutional theory, these finding suggests in the when there is high complexity and uncertainty, actors will rely on socially produce and reproduce responses rather than comply with the standard set of rules (formal or informal).

9.3.2: Contribution to Methods of Research

In addition to contribution to the PPP governance theory and institutional theory, this research makes significant contribution to methodology. Although the scholarly study of PPP in general and PPP governance specifically in Uganda, and Sub-Saharan Africa as whole, is very scanty, the actual number of PPP studies globally is steadily increasing. But, to the best of the researcher's knowledge this study is the first to use a phenomenological or interpretive approach to explore the relative experiences, opinions and perceptions of actors directly involved regarding the post contractual governance issues. To the contrary, the available knowledge and scant scholarly efforts about Uganda's PPPs majorly focus on the PPPs macro-level government regulation, issues of formation and financing arrangements.

From the methodological point of view, this study adopted and pioneered phenomenological stance and employed an unusual combination of data collection approaches of semi structured interviews and documentary analysis - as opposed many that utilize only to use of only documentary analysis. By utilizing in-depth interviews as the principal data gathering approach, the researcher undertook a qualitative study that enabled to capture experiences and perceptions that revealed unknown and concealed realities. For instance, previously, most of the challenges faced by the PPPs after the contract was signed, as revealed in this study, remained discussed (or haphazardly discussed), or were matters of speculation among different stakeholders (internal and external). Analysis of the in-depth semi-structured interviews enabled the author determine the important themes addressing the research questions that the study reports and discusses. Each of the themes under each research question reflects both a pioneering idea and research for PPP governance research in Uganda. In all, the key theoretical and conceptual contributions outlined above and the practice contributions delineated next are outcomes of an innovative research design.

9.3.3: Contribution to Practice

In addition to the theoretical and methodological contributions made, the research contributes to practice in important ways. The investigation explored a large number of practical facets that open up broader reflection, implementation and better comprehension of PPP governance realities after the contracts are signed and operation commences. Specifically, the research contributes to practice from two important dimensions. The first is the set of important post contractual governance challenges (PCGCs) and the post contractual response mechanism (PCRMs) that the research delineates. This set of PCGCs and PCRMs is the summary of conclusions and recommendations that could be helpful as guide to those that are involved in managing operation of PPPs in Uganda. The second set is broader and more general conclusions and implications that equally possess salient practical significance for policy makers, development support actors, advisors (individual and organizational) in the PPP field in general, but more specifically in Uganda. In all, the findings of this study may have some important policy and managerial level implications for a number of groups concerned with PPP modality generally, and post contractual governance realities specifically, in Uganda. In this regard, several recommendations delineated from these findings are discussed in the following subsections.

9.3.4: Policy Implications for the Ugandan Government

I. **The Uganda Government needs to create clarity on Institutional Frameworks Guiding PPP implementation**

As study observes, PPPs are in themselves products of institutions. In Uganda there are PPPs such as the case study in this research that were developed before the specific PPP institutional framework was enacted. The PPPs appear to suffer from over regulation as a result of being administered by different sets of frameworks. In this particular case, the unclarity has led to contradictions arising from supremacy contests between the contract as the main founding instrument and the regulatory instruments such as operating licenses. To this day it is not clear, in the event of contradiction between the contract and regulatory provision, which of the two takes precedence.

II. The Uganda government needs to clarify the role of regulator vis-à-vis public sector contracting agencies in practice and institutionally empower each one accordingly

The study shows that identity of the public sector and its role in operation of the partnership is very unclear and often conflicting. In particular, in this case it is not easy to readily tell from the nature of engagement whether the regulatot is the public sector representative as the same time. The findings show that the regulatory authority plays the role of standards setting on one hand but is evidently involved in what would be seen a routine roles. A case in point is in the important aspects of investment. The regulator receives the investment plans, approves, and verifies the investment. The checks and balances that regulatory authority must provide then are evidently conflicting as the regulator is involved in the operational roles more like partners. Conversely, the evidence shows that the-would-be substantive public sector partner is engaged in its own implementation as an independent distributor with minimal participation in the case study partnership. At best they follow the prompts or specific instructions of the regulator on any actions they ought to execute. Similarly, in certain instances the private operator relates directly with the Ministry of Finance, Planning and Economic Development by virtue of the latter being signatory to distribution support agreement. This situation appears to undermine roles of different actors and render some actors inactive or passive. This ambiguity needs redress.

III. **The Uganda Government needs to improve the Credibility and Capacity of Public Sector Contracting Agencies**

Among the drivers to challenges at the post contractual phase suggested in this study, the majority of them lie with the government capacity to manage PPP policy and transactions. Post contractual governance of PPPs requires more government capacity since the arrangement involves complex arrangements and more actors than in the conventional models of direct government service provisions and contracting out. Moreover, PPP relies on the credibility of government and public sector agencies to attract and sustain the participation of the private sector partners. Indeed the private sector will not be interested and will not participate in a relationship where the public sector lacks clarity, coordination, commitment, skill and enforcement ability, which are problems appear in the Ugandan context

9.3.5: Policy Implications for Development Agencies/Partners

Some of the findings of this can also be utilized to suggest some recommendations for the external agencies and development partners such the Work Bank, African Development Bank, European Union and bilateral development partners such as the foreign governments that have been and continue to be supportive of the PPP model in Uganda.

I. Better Understanding of the Domestic Context

This investigation partly determines that the postcontractual PPP experiences in Uganda are affected by the domestic contextual conditions that relate mainly to the social, economic and political aspects. Although the research suggests that there is demonstrated willingness to embrace the modality at the different levels, particularly at the national level, there is need to ensure that the practical arrangements in operationalization of the model fits with important facets of the domestic context. The civic awareness and readiness for the model and the practical implications for the large array of stakeholders require more appreciation of the cultural, economic conditions, and the political system of Uganda. For instance the very highly partronised political culture that influences political leaders populist behaviors that interferes with policy implementation needs to be taken into consideration for PPP to work effectively after contract signoff.

II. Transcend Promotional Rhetoric to Addressing Actual Realities of Implementation

The agencies such as the World Bank and others for the development of PPP in Uganda can indeed be understood as an attempt to foster better governance of the public infrastructure and service delivery based on ideals of efficiency and capacity complementation. Moreover, it can also be viewed as facilitating reform of the public sector to develop more agile and responsive governance systems that adapt to increasing demands and requirements for public service provision. The importance emphasizing that rationalization, particularly for encouragement of adoption of PPP, not withstanding, once the PPP arrangement has been adopted and projects agreed to external agencies needs to support assessment of actual outcomes and offer assistance to process drivers such as competition and transparency in the course of the provision of services or development of infrastructure. In other words the focus on actual substance over the form of these arrangements need to be central because supporting only to a point of agreeing and signing off PPP arrangements, however many, does not guarantee the achievement of the very aspirations for which PPP adoption are rationalized. Support arrangements that transcend the explanations of rationales and formative arrangements would be helpful if PPPs are to replicate the positive outcomes attributed to them elsewhere in world.

9.3.6: Internal Management Implications for PPP Actors

In regard to the routine internal management, the findings can be used to make two important recommendations for actors responsible for steering the partnership at the postcontractual phase.

I. **Actors need to be Flexible to Adapt to Realities**

The findings have demonstrated that post contractual phase of PPP is indeed dominated by challenges situations and conditions that require actors to be agile and adaptive to sustain the arrangement and have a chance of achieving the objectives. The development of institutions, especially formal institutions, that condition the actors need to provide for options to revisit the institutions in mutually appropriate ways that does not undermine the objectives of the partnership and or adversely alter allocation of benefits and costs that accrue to the other party.

II. **Focus on Partnership Outcomes/High Order Rather Than on Functional Partnership Results**

The findings also suggest that more focus on outcomes (as opposed to specific outputs) provides a better context to organize the different actor interests and priorities. The acknowledgment here is that although certain outputs or functional results may have been agreed beforehand, their significance in the course of the implementation of the partnership may reduce but the broader aspirations of service provisions will be more stable over time. For instance, improving reliability of service could be more important than making new connections, or vice versa. Once the partners can determine what the higher order results for their partnership are then it becomes relatively easier realign interests, priorities and courses of action of the different actors in the web of complex interactions. Table 9.2 shows the summary of research contributions.

Table 9. 1: Summary of the Research Contributions

Contribution	**Aspects**	**New insights**
Conceptual and theoretical	Specific phase of PPP	▪ Focus on postcontratual governance of PPPs
	Post contractual challenges	▪ Transcending significance of differing institutional logics ▪ Insufficiency of the contract as control instrument ▪ Pre-contractual underestimation of post contractual complexities
	Institutional theory	▪ Support assumptions that external and internal organizational pressures shape actors goals and directions ▪ Actors responses socially constructed and coercively isomorphic ▪ Insufficient evidence to suggest normatively, mimetically and cultural-cognitively shaped actor behaviours
Methodological	Interpretive approach, use of in-depth interviews	▪ Use of qualitative research methods for PPP study in Uganda
Praxis	Policy implications for the government of Uganda	▪ Government needs to create clarity on the institutional framework ▪ Government needs to clarify the roles of regulator vis a vis public sector partners ▪ Governments needs to Improve credibility and capacity of public sector agencies
	Policy implications for development agencies	▪ Better understanding of domestic context ▪ Transcend the promotional rhetoric to addressing actual concerns of implementation
	Internal management	▪ Actors need for flexibility ▪ Focus on high order partnership results

Source: Authors own work

9.4: Research Limitations

9.4.1: Research bias

One of the important limitations arises from the philosophical stance the researcher adopted for this investigation. By opting for an interpretivist approach, the researcher determined to explore the subjective realities as depicted from the opinions, perceptions and experiences of interviewees. As detailed in the methodology chapter, the interpretivist approach was based suited to interrogate the objective of this study which aimed and exploring and important yet under focused post contractual governance challenges and actors response strategies as opposed to measuring selected set of variables quantitatively. The depth and scope of the data gathered and analyzed strongly demonstrated the high level of appropriateness of this approach for the specific aim of this research.

However, the nature of data collection protocol in the approach also meant that the researcher had a deep and regular interaction with the participants. With this level of interaction and repeatedly following perceptions, opinions and experiences, it is very unlikely that the researcher maintained complete independent, unbiased an unimpacted. In fact, to an extent, the researchers own perceptions got intertwined with the participant's views and opinions in the course of interaction. Nevertheless, the researcher in the course of this investigation has made important efforts to separate his personal views from the respondent perceptions, opinions and experiences. To achieve this necessary separation, the semi structured interview approach was used. First, the semi structured interviews only provided a guide not a rigid structure. In that regard the participants were not limited and were therefore able to freely share the experiences, opinions and perceptions. Secondly, respondents did not influence the researcher as they focused on describing, illustrating and elaborating their experiences as opposed to trying to convince the researcher.

The other way was to maintain the needed neutrality was by ensuring that the interviewees voices are are reflected in the analysis through first person quotations in this thesis. Particularly in the finding reports chapters (seven and eight) and sporadically in discussion chapter, exhibits of the first person quotes are used to evidence the findings reported – both complementary and conflicting. The intention of integrating both complementary and conflicting views in some instances is to demonstrate diversity in order and avoid uniformity that might suggest researcher bias. Despite the many explicit attempts to ensure impartiality, the complete exclusion of the possibility of researcher subjectivity is hardly possible and that is acknowledged, even without evidence, as a possible limitation.

9.4.2: Sample Size Considerations

There are a number of important sampling considerations that reflect the limitations of this study. First the researcher conducted a total of 31 interviews with 28 PPP actors, secondly the study focused on a single case study, thirdly the study focused on specific type of PPP modality – the concession, fourthly the study focused an infrastructure project in one sub sector – electricity, and fifthly the investigation focused on one country context - Uganda. Although in the methodology chapter these choices have elaborated, rationalized and scientifically validated as sufficient to enable a valid investigation that can lead up to useful contributions, all choices have implications. In this regard, narrow sample scopes specifically have an implication on the generalizability of the findings and contributions of this study. In particular this may limit generalisation of the findings to other models of PPPs such as asset lifecycle based PPPs and Institutional PPP (IPPPs), sectors other than economic infrastructure and electricity, other countries with different socio-economic and political conditions, and countries with a long tradition and experience with PPP modality.

That said, to ameliorate the risk of posed by narrow sample, the researcher focused gaining more depth and richness rather than scope. First in regards to the participants, the researcher ensured any categories of influential actors in partnership were represented. In particular, the researcher included respondents for the regulatory authority whose role in setting sector wide standards and protecting public interest is very instrumental at the postcontractual phase of this PPP, the private operator whose role is to operate the assets and deliver the service as agreed, the leased asset owner, UEDCL, who is the holding company for the asset operated by the private operator, the Ministry of Finance Planning and Economic Development that over sees the modality of PPPs and is signatory to the support agreement of this project, the Ministry of Energy and Mineral Development that is responsible for the policy level decision making of the sector. In terms of individual actors, both present and former individual actors were interviewed to capture both current and retrospective experiences over the 13 years of the PPP project operations. The actors were also drawn from different professional disciplines and they included engineers, accountants, lawyers, economists, auditors, administrators, and legislators who participated or still participate directly in the PPP project from 2005 when the project became operational.

Secondly, the author made every attempt to ensure truthfulness of the study by providing elaborate account of interviewee experiences and perceptions. Thirdly, researcher undertook to triangulate the data as methodology chapter discussed. While these actions may not be sufficient to justify generalization of the this study to a wide array of peculiar contexts, the researcher has confidence that the findings of this study are grounded on accurate and representative opinions and perceptions necessary to understand the studied case and context at the time of the investigation. The researcher also believes this study findings can be generalized and maybe useful in other contexts with similar socio economic and political conditions as Uganda. In particular, aware that the diffusion of PPPs in most developing countries emerged as an outgrowth of the public sector reforms of the 1980s and 1990s, it is likely most of the countries follow a similar trajectory in their institutional development of PPP and as such findings of this study could be insightful for such countries as well.

9.4.3: Retrospective Experiences

As noted earlier, this study also based on retrospective accounts of the individual actors. Some of the individuals directly participated in the projects more than 10 years from the interview date. It is likely some of the details were lost or conflated with different experiences which could affect the quality of the opinions, experiences and perceptions shared. To address this possibility, the interviewees were requested to address their minds to particular incidents and occurrences that they could remember more vividly rather than attempting to recall all specific happenings.

9.5: Suggestions for Future Study

The above limitations suggest that investigations will often be incomplete making it rather difficult or impossible to reach a summative end to knowledge generation. In this regard as well as building from what has been known in this study, the research on post contractual governance in the context of developing countries or any countries with nascent PPP experiences such as Uganda, is not complete. This study has featured its context, which accounts for the postcontractual realities of an evolving PPP policy in a particular country and the early experiences of the PPP implementation. Indeed these realities have depicted that future research would be useful to reexamine the level of preparedness and readiness of the country for the sustainable implementation of the PPP modality by examining the formative stage processes and the termination processes – stages that are not the focus of the current study.

Specifically, one area for further study is the assessment of institutional capacity for long-term PPP. This research demonstrated that actors grappled with significant institutional related in Uganda. Infact, while the development complementary institutions is one of the major responses to the challenges experienced, the weaknesses involving institutions account for the majority of the challenges in the first place. Similarly, further research would be helpful to determine the nature of competence development required with the public sector stakeholders to work with the private sector in the context of long-term partnership.

The other area that requires investigation is the motivation of partners. It is important to establish what the actual motivations and drivers are beyond the overarching rhetoric developed and passed down by international promoters of the model such as Value for Money (VfM), resource mobilization, capacity transfer, efficiency, most of which become only secondary consideration once the contract signed. The findings of the study suggest that some of the important post contractual challenges arise from differences in priorities and operational courses of that are focused on delivering outputs rather outcomes of the partnership. A clear articulation of higher order results for PPP would help to better shape the relationship and approaches.

Another important area that requires further investigation is how sustainable mix of contractual and regulatory control of PPPs can be achieved. This study has suggested this as an important gap at the post contractual phase of the partnership. The contradictions the emerge from the applications of two control instruments need clarity, especially in the context of a regulated sector involving other actors that may not directly be parties to the PPP contract.

Finally, it would be important to have studies that directly address some of the important sample limitations of the study. For instance a study that blends experiences from PPP projects in both social and economic infrastructure.

9.6: Chapter Summary

This final chapter of the thesis has outlined the important findings of the investigation and pinpointed the contributions made in different areas including the conceptual and theoretical, methodological as well as practice. The chapter has also made profound acknowledgments of the limitations and the effort undertaken to address the limitations in the course of the study.

In context of the findings and limitation of this investigation, suggestions for further study have been suggested. The researcher firmly believes this study purpose has been achieved.

9.7: Final Reflections

Finally, having completed the process of investigation, it is important to reflect on some of my personal experiences in the course of investigation. On the topic of investigation, the researcher learns that exploring PPP as a model of organization for the public service delivery is a challenging task. It was soon after engaging with the topic that I realized that addressing PPP on the basis of literal meaning of the acronym largely underestimated the diversity of the considerations in this topic. In particular, the perspectives from theories, academic disciplines and practice in which the PPP is addressed are many. Similarly, the different interest groupings focused on different facets and prioritized different issues. Although addressing the topic as management student provided some early lenses, within the broader management discourse there were still many possible directions to take. This was initially confusing and occasionally overwhelming – mostly because there were many worthy perspectives. Eventually, focusing on governance of PPPs provided an important shaping lens that enabled the specific delimitation as seen in this final thesis to start 'falling in place' from continuous refinement based on extant and focused appraisal of body of literature. In this regard, a lot of valuable insights have been achieved by engaging in the direction that the researcher chose but admittedly much more has been left out for the future and for others.

Another major learning point gained in undertaking this investigation is application of qualitative approach. Although many aspects of qualitative research protocols now appear somewhat straight forward and routine - to an extent that I have to occasionally remind myself that I did not know some of these before - is an important learning point for me.

At a methodological level, three aspects importantly highlight my learning progression in the course of the research. First are the protocols of gathering qualitative data. Gathering qualitative data is an intensive process and calls for application of wide variety of technical and behavioral abilities. Possibly one of my insightful learning points is in interviewing participants where stuck a revelation of the ability of individual and personal differences to shape meaning and importance of data was very evident. It became apparent that everyone individual, regardless of the nature of conditioning in their organizational environment, will demonstrate personal traits that will suggest or provide some unique perspective – as such, no single approach will work perfectly for everyone. The second major learning is on the value of early determination and development of skills to use specific data management and analysis tools. I would not emphasize more how this has been helpful. Having made choices to utilise EndNote and NVIVO as my reference management and data analysis tools respectively at the early stages of this research, the tools have enabled better organization to the very end. Thirdly, in conducting qualitative data analysis many useful insights can be gained. Although it appears to be generally be acceptable within qualitative research domain to start broad and refine downwards (or as my friend used to say, ‘to start vague to get clear’), in reality making specific choices to reflect the ‘key’, the ‘most important’ aspects was a daunting task. Often it was painful to ‘abandon’ some directions and issues. But as is the process, tough choices have to be made and that learning is gained. These are some of the peculiar methodological learning points arising from the qualitative approach and it is unlikely that similar learning would have been gained had the researcher adopted a different approach.

In a nutshell, more than making specific contributions to the knowledge as detailed in the preceding sections, these personal learning is critical for the researcher as they reflect more enduring and life changing lessons regarding the conduct of extensive social science investigation generally.

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APPENDICES

Appendix 1: Example of the Information Sheet

Research topic: Governance of Public Private Partnerships

I am requesting you to participate in the interview process for a PhD research study. In order to help you make an informed decision, I am providing important details about the research project and the interview process.

Considering that Public-Private Partnership (PPP) for infrastructure development and operation is a relatively new instrument in Uganda, the purpose of this research project is to understand number of facets relating to the relations between actors, dynamics involved in the formulation and implementation of these PPP projects, and the nature of adaptations. For this, the research uses the Energy sector and the on-going Electricity distribution concession as a case study. As a key representative of the operator, UMEME, you are one of the key stakeholders involved not only in the interactions at the implementation phase, but you also have a better retrospective understanding of the formation processes and decisions. Your perspective is of great importance for this study. By participating in this research project, you will have the opportunity to provide a full representation of your perspective on the subject being addressed.

- Participating in this interview is voluntary, and you will have the right not to answer or comment on any of the questions
- The interviews are expected to last approximately 45 minutes. If you agree to participate in the interview, you will be asked to sign a consent form, in which you will decide the level of confidentiality and disclosure to be applied to the information you will provide.
- Any personal information provided in the interview will be encoded and kept in anonymity, and will also be confidentially and securely stored in a private computer with password protection.

The information obtained from the interview will contribute to my PhD Thesis (Faculty of Business, Law and Politics, Hull University Business School, University of Hull, UK). This research project has been ethically reviewed and approved by the Faculty of Business, Law and Politics Research Ethics Committee at the University of Hull (letter attached).

If you have any questions regarding the research project, the interview process, your rights as a potential interviewee or need any other clarification, please feel free to contact me for further information by email at M.onyoin@2016.hull.ac.uk or by phone number +44(0)7443055749 (UK), +256772465556 (Uganda). Alternatively, you may contact my principal supervisor Professor Chris Bovis by email: C.bovis@hull.ac.uk.

You should keep this information sheet for further reference and if you decide to participate in the interview, you will also receive a signed copy of the consent form to keep. Thank you for taking the time to read this information sheet and to consider participating in the interview.

Kind Regards,

Moses Onyoin, PhD Candidate

Appendix 2: Example of Pilot Interview Guide

Research topic: Governance of Public Private Partnerships

Purpose and main focus of the Pilot interview: The pilot study is conducted in order to obtain initial understanding on a range of issues involved in Public-Private Partnership (PPP) management. In particular, this preliminary investigation is hoped to deliver particular advantages including: Broadening the array of data sources; Deciphering the directions in which the data search should proceed; Test the relevance of theoretical insights drawn from the literature assessment; Facilitate the choice (and refinement) of questions that I plan to ask during the detailed semi structured interviews, as well as facilitate the corroboration of evidence.

As I understand, the principal task of the Public-Private Partnership Unit is to assist government agencies in project preparation and obtaining approvals for partnership project proposals. As the leader of the Unit I believe that you are deeply involved in the oversight and guidance of these activities. Your exposure to episodes regarding how the government agencies collaborate in the design of a PPP project as well as recurring implementation issues is a valuable experience that can help shape this inquiry.

To this end, I am seeking to conduct an episodic interview with you as the head of the Public-Private Partnership Unit. During this interview I will seek your experiences as they link to concrete situations and circumstances on the following questions:

1. As you understand it, where would you trace the origin of Public-Private Partnership as a modality for delivering public services in Uganda?
2. Have there been any forces or actors that have facilitated the diffusion of the PPP model in Uganda? If yes who are they and how have or are they doing it?
3. As part of the technical advisory team, what major justifications inform your advice to manage (or not) the delivery of a service (or to provide an infrastructure) through a PPP model?
4. What issues seem to occupy most attention of PPP actors? Why do you believe make these issues are regular?
5. How can you prioritise these issues?
6. What monitoring techniques and controlling mechanisms are you using to oversee the progress of the PPP projects? How successful have these been? What gaps remain? (what ways and tools are available, in their view, in order to adapt to these challenges)
7. What sets of skills and kind of expertise do you think are necessary for managing PPP projects in the Ugandan context?
8. From your experience in practice, who are the PPP key actors?
9. What organisational (institutional) documentation may be useful for a PPP study?

I thank you for accepting to respond to these preliminary questions and I hope I will have another opportunity for a follow up interview.

Kind regards

Moses Onyoin

Appendix 3: Interviewee Positions, Categories and Coding System

	Position at time of interview	CODE	CODING SYSTEM: PUBLIC SECTOR = PU PRVATE SECTOR =PR INDEPENDENT CONSULTANT = IC PRESENTLY ACTIVE IN THE SECTOR=PA NA PRESENTLY ACTIVE IN SECTOR =NA. REGULATORY = RE
CONSULTING ACTORS			
1	Investment Officer, International Finance Corporation- Subsaharan Africa	IC	IC-PA-1
2	Managing Director, Mott Macdonald, Transactional Advisory firm	IC	IC-PA-2
PRIVATE PARTNER ACTORS			
3	Managing Director, UMEME (SPV)	PR	PR-PA-1
4	Regulatory Financial Controller, UMEME (SPV)	PR	PR-PA-2
5	Economist, UMEME (SPV)	PR	PR-PA-3
6	Engineering Consultant/Ex Projects Manager/Quality Assurance Manager, UMEME (SPV)	PR	PR-NA-4
PUBLIC SECTOR AND POLICY ACTORS			
7	Private Legal consultant/Ex Director Legal Privatisation Unit, Ministry of Finance Planning and Economic Development	PU	PU-IC-PA-1
8	Ex minister of Energy and Mineral Resources	PU	PU-PA-2
9	Presidential Advisor on Oil and Gas/Ex Permanent secretary – Ministry of Energy and Mineral resources	PU	PU-NA-3
10	Leadership member in the National Parliament	PU	PU-NA-4
11	Ag. Director, Energy Resources Development, Ministry of Energy and Mineral Resources	PU	PU-PA-5
12	Minister in the government of Uganda	PU	PU-PA-6
13	Ag. Director, Private Partnership Unit (PPPU), Ministry of Finance Planning and Economic Development	PU	PU-PA-7
14	Ex senior executive in the Privatisation Unit, Ministry of Finance Planning and Economic Development	PU	PU-NA-8
15	Senior Communication Officer, Privatization Unit, Ministry of Finance Planning and Economic Development	PU	PU-PA-9

16	A senior Executive in the Privatisation Unit, Ministry of Finance Planning and Economic Development	PU	PU-PA-10
17	Manager, Off Grid, Rural Electrification Agency	PU	PU-PA-11
18	Chief Finance Officer, Uganda Electricity Distribution Company Limited	PU	PU-PR-PU-PA-12
19	Head strategy, Uganda National Roads Authority	PU	PU-PA-13
20	Engineer, Uganda National Roads Authority	PU	PU-PA-14
REGULATORY ACTORS			
21	Private Energy consultant/Ex. Managing Director, Electricity Regulatory Authority	RE	RE-NA-1
22	Director, Economic Regulation, Electricity Regulatory Authority	RE	RE-PA-2
23	Manager, Economic Regulation and Research, Electricity Regulatory Authority	RE	RE-PA-3
24	Private legal practice/ Ex Legal Secretary, Electricity Regulatory Authority	RE	RE-NA-4
25	Private Engineering consultant/ Ex Director, Technical Regulation, Electricity Regulatory Authority	RE	RE-IC-PA-5
26	Manager, Legal and compliance, Electricity Regulatory Authority	RE	RE-PA-6
27	Manager, Pricing, Electricity Regulatory Authority	RE	RE-PA-7
28	Manager, Corporate Planning, Electricity Regulatory Authority	RE	RE-PA-8

Appendix 4: Example of Interview Guide for Policy Level Actors

THEME 1: RATIONALIZATION FOR PRIVATE SECTOR PARTICIPATION

1. What was the policy level rationale for inviting the private sector in the energy sector?
2. What informed the decision to choose a PPP (concession) as a model for private sector participation for both generation and distribution?

THEME 2: DEVELOPMENT PHASE (Before selection of the private partner)

1. What were some of the key challenges faced by the government during the formulation of the electricity concessions?
2. What specific aspects at the formulation phase more challenging to manage during before the final agreements were made? How were these addressed?

THEME 3: IMPLEMENTATION (After the signing of the agreements)

1. At this phase of the partnership, what has been the government major preoccupation in partnerships?
2. In retrospection, are there any aspects that you now believe could have been done better for more effective partnerships?
3. From a policy level perspective, how do you see the future of PPPs in the infrastructure?

Appendix 5: Example of Interview Guide for Public Sector Partners

Category B respondents: Partnering Government department(s)

Action chronology

a. Personal introduction and setup of the devices and notepads
b. Introduction of the research project, justification of choice of respondent, and verbal confirmation of consent

Interview questions

1. What do you understand as the major justifications to manage the delivery of this service (or to provide this infrastructure) through a PPP model?

2. For the time have been part of the public sector team involved with Project, in which areas have you had to intervene, why did you think it was necessary and how did you do it?

3. What is the nature of issues that have required regular interaction between you and your private sector counterparts in the delivery of service?

4. Are there any examples of issues that were never anticipated (as such no routine course of action) that you had to adapt you? What did you do and did it work to resolve the issue?

5. Have you faced challenges that you had to address in any other ways because the specific recourse to the contract was either not possible or undesirable? If so could you share a few examples that come to mind?

Appendix 6: Example of Interview Guide for Regulatory Interviewees

Category: Regulator representatives

In no strict order, the interview will be guided by the following questions:

1. As part of the regulatory team, what do you understand as the major justifications for adoption of the PPP (Concession) model for electricity generation and distribution? In retrospection, was this a necessary model to adopt in the electricity subsector? Could anything have been done better at the development phase on this model?

2. For the time have been part of the regulatory team involved with Project, which aspects have regularly required regulatory intervention in the operation or implementation phase of this partnership? Why do you think these aspects were regular and what actions were taken?

3. What in what aspects (if any) do you believe the asset owners (UEDCL and UEGCL) have required regulatory intervention to better play their roles as public sector contracting bodies in the concessions? What do you believe has occasioned this need?

4. In your regulatory role, have you faced challenges that you had to address in any other ways because the specific recourse to the agreements was either not possible or undesirable? If so what examples come prominently and what was done?

5. From an independent regulatory view, are PPPs a sustainable model for the electricity subsector and how can it be made better going forward?

Appendix 7: Example of Interview Guide PPP Project Executive Leaders and Managers

Category A respondents: **PPP executive leaders and managers**

Action chronology

c. Personal introduction and setup of the devices and notepads
d. Introduction of the research project, justification of choice of respondent, and verbal confirmation of consent

Interview questions

6. What do you understand as the major justifications to manage the delivery of this service (or to provide this infrastructure) through a PPP model?

7. For the time have been part of the management team of this PPP, what are some of the significant interferences have you had to deal with? What do you attribute these to?

8. What is the nature of issues that have required regular interaction between you and your public sector counterparts?

9. Are there any examples of issues that were never anticipated (as such no routine course of action) that you had to adapt you? What did you do and did it work to resolve the issue?

10. Have you faced challenges that you had to address in any other ways because the specific recourse to the contract was either not possible or undesirable? If so could you share a few examples?

Appendix 8: Example of Interview Transcript

	Timespan	Content
1	0:01.3 - 1:41.2	**Moses**: OK, so Celestino, as I have given you a preamble I am basically doing the study on PPPs and I am using the electricity distribution concession as an exemplification. I chose this this concession because it captures the dynamics in a very complex way particularly given how the sector is structured and its at the pivot. It is at the front end of the interface and also has strong linkage with background processes from generation, transmission. So, three facets basically informs my inquiry, one, I would like to understand how your perceptions how the rationale for the concession, two, I want us to dig into the aspects of the relationship and interrelationship , as you understand it, between the public sector which is the contracting agency and the private sector the SPV. Then probably your hints on issues going forward. But in all these my gist is to understand the public sector capacity in formulating and implementing PPPs
2	1:41.2 - 1:43.3	**Celestino**: OK, thank you.
3	1:43.3 - 1:57.6	**Moses**: So on rationale, do you feel at the onset you understood why government went this route and what you have done to attempt to reconcile the interests of the public sector and the interests of the public sector?
4	1:57.6 - 4:19.2	**Celestino**: Yeah, when you look at it, its typical its not unusual uuummmh model of service delivery worldwide in UK in US south America , Asia, I think government realised that to better deliver service sometimes it is important to work in joint partnership with the private sector to deliver the service to citizen of any country. On one hand they will recognize what motivates the private sector on the other hand they also have to protect public, the public interms of pricing and all other elements they look at. So you look back and say okay why was the sector reformed first of all? If you step back in 2000 and early 2000s Uganda had only one dam which had been built in 1954 I do not know, I am told as donation but most likely may have been built to facilitate industralisation of the then entities which where operating in terms of mineral processing, cooper aaah to complement exports. Now first forward you reach 2000 the best thing government did was too..or understanding the risk of one dam collapsing they built an extension, Owen falls dam, right, which was in parallel to the old dam and that's it. Less around 200000 customers were benefitting from electricity, total generation then was less than 100MW of power, no industrial activity, the network had been neglected especially during the 70s (1970s) nothing much was done to further invest in the network so basically the network was run down. The government looked at it and said look this is a large challenge so either the citizens or users can wait for years as government mobilizes resources to put the infrastructure together or we can partner with the private sector
5	4:14.9 - 4:19.5	
6	4:19.5 - 6:35.1	to deliver the service now at a price with the consumers will pay. The sector was reformed, it was very deficient, almost 40% of the power would not be accounted for, you transmit up 40% and it disappears. Either its stolen or the network consumes it, only around 80% am told of the bills would turn into cash uumm you again step back and see its heavy if you read the national budget then am told you would find a lot of subsidies going to UEB to support their capital expenditure, support their operation and maintenance which is a reflection of the sector being financially, commercially viable to operate on its own so the government decided to liberalize as part of its general privatization agenda. You recall then some assets where totally sold off, some companies like Uganda Airlines were liquidated, some sectors were opened up like the telecom industry was opened up to attract other players to come in, Uganda hotels was sold off. But for electricity what they did given its importance they said we will open space for private sector in generation, we will also privatize, through concession, distribution. We will maintain the system operator role as transmission as government, a) to give assurance to the guy generating that we will take your power but also to give assurance to the distributor that government is still there and government is the best person to guarantee you and we aren't leaving it to market risks and everything. Then they said we shall put in a regulator to oversee you guys, your operation, pricing and to protect the interest of the customer and public. Then for distribution they defined what they want from the distributor
7	6:35.1 - 8:46.8	to address the pains. Very few customers were connected so they said we will give you a target of

		increasing customer numbers, the sector was very deficient losing about 38% of its power then, to be specific in 2005, then they said we will give a target to keep reducing because the less the loses the better the financial economics of the sector and pricing, so we give you a target on that. The other challenge was collecting bills, they said we will give you a target on that. The challenges was the network required to expand meaning that the government wanted private capital come in. Then they said if you bring in private capital to invest we will give you a fair return on which to make a profit. They said well look we know the challenges of running a distribution network are unlimited, then they said we will fix your operating cost such that you can be efficient. if you blow it up ---so basically then they said we will put regulator who will set your price, who will set also the quality of service standards so that you can protect the interest of the customer because there is a fear that if you are a private sector and he motive is going to be profit then you can push for that. So those are the elements that formed the concession for distribution. so got the private sector to solve those challenges. On generation, they also opened up, they gave them a PPA, you sign a PPA you agree on your contract depending on how you structure. Then also you agree on afixed rate on which they are going to pay you so all you do, you come and invest you have your PPA put the power on tne system, that it.
8	8:46.8 - 11:43.3	Then you step back and say ok, has this worked? And I want you to give this background in terms of rationale, has this worked? Within that framework if you step back and I was running the numbers the other time you will see that we have more than 20 independent power producers who have come on. We have bujagali, we have Kinyara, we Kakira, Tororo cement, Soroti solar plant, we have the Jacobson plant, we have the mini hydros, those you have Aswa, all those. Now the system generation capacity has moved from below 100mw to now effective generation of more than 700wm (Moses: 860mw) and the installed capacity is over 930MW, right? So you say well, therefore the intention of opening up to the private sector, the privates sector responded and they have actually invested to support government scarce resources. If you come on the distribution side ummmhh I think that there are more than 10 elements you can look at to prove that it has worked; losses have moved from, energy losses have moves from, the amount of power lost through the system or stolen has reduced from 38%, last year (2017) we closed at 17.2% and when you compare in the region that number is very competitive in terms of the impact spreading to the tariff. We collect 99% of the bills that we send to our customers meaning customers now are paying. We have doubled size of he network we inherited about 16000km of medium voltage lines, at the end of last year we had 33000km of medium voltage lines, we inherited 16000 distribution transformers we used to distribute by the end of last year we 12000 distribution transformers, we were dispatching 1000GW of power by last year we sold 2800GW worth of power. You step back again and look at other elements in terms of innovation, Umeme has been has been at the center, because it private sector, for example introducing prepaid metering, going on mobile, we are mobile on everything, basically you dont have to come to our office to get the service, you know whats going on you can pay your bills online. Basically we have introduced alot of technology, we can operate our network through remote, switching on switching of someone sitting in control center. We have call center where you can log your complaint and someone will come and solve it. We have been very innovative.
9	11:43.3 - 12:38.7	Another aspect that you want to step back and look is investment, cumulative investment where the private sector has put half billion US dollars private capital coming into the country to complement government and we moved our customer base from about 290000 we inherited in 2005 to now, last year we closed at 1.1million customers. Yes there is a referee in terms of the regulator the system is fairly more stable than before interms of reliability of supply. some power may go off here and there but response time is are good and is good more that it eas in 2005. So basically using those lenses and elements you say this was the rationale, this was what was done and this is where the sector has moved for me from my perspective it has worked.
10	12:38.7 - 13:05.9	**Moses**: OK, so, if you flip it against the intention you feel it has worked. Lets try to move in into the nature of interaction. From the time we cut the ribbon (commencement of the concession) in 2005, its now about 13 years going to 14 years, what have been the predominant issues that have dominated the relationship between you and the public sector. And by public sector I am looking at the asset owner?
11	13:05.8 - 15:36.8	Yeah, from the public sector perspective if you look at it, its ahhh, for us whatever we do we do it in the interest of the public so we are a vehicle of delivering service to the public on behalf of the government . So if you look at it who would be more concerned? If you look at it it will be ministry of finance. Why?

		They know from a fiscal government budgeting perspective if a sector is self-financing, meaning its financing everything without government putting money in generation for O&M or capital in distribution its good for them then they can prioritize their resources and deploy them else where, right? Or the sector should be generating fiscal resources in terms of taxes which complement national resources and indeed UMEME is among the top ten tax payers in the country. So the Ministry of Finance has a clear interest because if this thing does not work, not only will it be a burden to the national resources but also it will expose government contingent liabilities. For example if you terminate this contract now the evaluation will be in excess of 400million dollars of a cheque you have to write. So the Ministry of Finance has an interest. So look in the interest of the ministry of finance, are we are we not helping them? I think we are. I think we are. We have winned off the sector from sucking the national budget. Just for information okay you may have to revalue them because the value then you put in the inflation and price indices might be different. In 2005 we collected 161billion shillings, ok, Last year we collected around 1.7 trillions shillings. That'ss 10 times growth. Then you were depending on government now the whole sector does not depend on government. And I am paying the transmission company. Last year I paid them around 1.1billion, every month I am spending 100n. That would have been government money, from government to the sector and we are among the top, we almost 75billi interms of taxes or there about. We are among the top 10 tax payers in the country. We employ more than 1500 employees. So you see from that fiscal lens but also somewhere as i indicated we brought in more than half a billion you have really winned off.
12	15:20.9 - 15:36.9	
13	15:36.9 - 16:32.2	Who is the other interested party? Ministry of energy, why? It's their mandate to make the policy directives and you have link within the all energy because you have generation, transmission, if distribution does not function then from an energy policy perspective you will not meet your objectives, including rural electrification, so without those synergies, right? And to be fair we moved access rates for this country from around 7% to now about 23% or there about. I think its about 22 or 23% I will confirm it access of people/household using electricity. And also we have been supporting a lot of energy efficiency initiatives for people to reduce their bills. So that's ministry of energy. So we are core for them to drive the energy policy in the country.
14	16:32.2 - 18:13.4	The other lens you put on from the public sector perspective is the regulator. The regulator will be interested in low prices, will be interested in quality of service to customers, will be interested in us meeting their targets and regulatory compliance. Though we have delivered on all those mandates: loses, collections, operating efficiently, improving the service levels to customers, of course we have regulatory challenges in terms of either capital not approved or unpredictable behavior or sometimes the prices are not sufficient because of the policy direction. You find that the prices are not cost reflective enough to deliver the service or investment levels that you may require. This is a capital hungry sector, if you have 23% of the households in Uganda accessing power and yet you need to access the other 77%, you need to build substations you need to build lines, you need transformers. All those things are capital in nature. A substation is around 4million dollars, a transformer zone is around 40,000 dollars. So if you are to double this number you have to double the amount of investment. Our estimate requires that if you are to reach 40% -45% access rate we need to inject in another 1.2billion dollars of investment because where as telecoms its wireless if I put my tower there I can pick up all people around here, for power unfortunately its house to house. Its like the old telephone lines where you had to run the copper wire to the house.
15	18:13.4 - 19:04.1	The other one you look at, who is the other interested party, is the public legislative team in parliament. We have had a frosty relationship with parliament - understandable! Understandable! why? The parliament represents 100% of the population and 77% of the population has no access to the grid, of course they will be fighting for them. Unfortunately they will be looking at you because you are the face of the sector to reach all those guys as fast as you can, and they represent the interest of the masses. Now that's where we have had a frosty relationship but our role is to continue engaging, educating them to ensure that they understand what we and that rural electrification drives the other agenda of the masses.
16	19:04.1 - 19:29.2	**Moses**: the etho that govern partnership generally is of collaboration much more than competition that between you and your public partners, whoever they are as the various stakeholders is the there must

		be a collaborative sense of relationship. Are there instances for example where you felt that there is little or no collaboration at all?
17	19:29.2 - 21:59.9	**Celestino**: Collaboration is very fundamental, its extremely fundamental and the ecosystem is dependent on each other. I will give an example, in 2012, the demand for electricity, earlier from 2006 actually, the demand for electricity was much higher than the available generation capacity in the country. Guess who was taking the brunt? Could we put our hands up and say it is government or transmission or what, no you cannot because you know the truth. We messed up, we did not invest way back in. You remember when the original Bujagali was messes up by parliament Ken Lukyamuzi time and the investment decision delayed and investors pulled out. Actually if someone quantified that cost that was the cost of the 6th parliament, it is in billions of dollars in lost GDP. We lost five years as country of development because of flimsy reasons of our people, that one of the areas you look at collaboration. The second one is for example investment, for e.g., currently we see a lot of demand of electricity in the Bombo area as you drive through northern Uganda, bombo you alot of but we do not have transmission capacity because for us we pick power from the transmission company. The available capacity there now 40MW can no longer fulfill the demand by the customers there. The customers are have a brunt on us because of the delayed investment decision by the transmission company. So there transmission must respond to our signal of where we see the issues are. If you go to Tororo for example there serious issues there if you read yesterday's article. Whereas cement factories are put up, these are industrial customers they all want power, there is no transmission capacity or the transmission is not reliable in that area. So guess who they come for? They come for us, so all these things have to be well collaborated. I give another example, the government ambition of accessing 40% of electricity, that requires collaboration between the utility providers to see how we can deliver that mandate, otherwise if there is nothing, if we don't synchronize we cant achieve anything.
18	21:59.9 - 22:24.8	What about in terms of control, I note that contrary, or probably not contrary, in addition to what happens in many other countries you have two models of control. You have contractual control and you have regulatory control, some countries do not have these, once you have the contract that's enough. In our case you have both the contractual and regulatory control, how do you navigate those? Are they always in sync?
19	22:24.8 - 24:30.7	**Celestino**: I know, I think the key thing is that the industry is still young, the industry in young, is still learning. It is still under micro control. In developed utilities what they do they give you targets, possibly they also give you a price cap, then targets in terms of service quality. The rest of the decisions, where to put the money is driven by the signals you see and your targets, period. But here, for example, they will give you an energy losses target and the same person is the same one to say I will approve that investment for that loss or I will disapprove it. The same regulator, for example, will give you the target on service provisions but same regulator who will determine whether to buy a motor cycle or motor vehicle or not. You see the contradiction? And you have to dance around put the hands down put the legs down. Its really too too much. You see it but they dont take it. I will give you and example, technology is the thing now, you get? It drives efficiencies, 20% of our turnover is based on prepaid metering that is accommodation 900,000 customers. Systems need every 4-5 years need, systems die you need to keep refreshing them. You know everywhere systems are overhauled. But here you have for example to justify that you have to dance, explain this. Not knowing that, for example, if that system goes down, if your turnover is 400million dollars these systems are now delivering for 80million dollars of real time such that if they go down the sector can come to a grinding halt. Power theft will go up, no one will be in darkness, people will not pay their bills, you know. That's where really that control is not good. So sometimes I prefer give me my targets, give me my ceiling and I decide where to put the money and deliver you the numbers.
20	24:30.7 - 25:09.4	Moses: When I spoke to the regulator, I understood that the biggest preoccupation is on two things: control how you invest, control the tariff. Investment is almost synonymous to the tariff and so they are in a 'catch 23'.They want you to be extremely efficient and you make demands that for us to be efficient

		we need to invest more, when you invest more it definitely translates into a higher tariff. How do you navigate this?
21	25:05.4 - 26:54.2	**Celestino**: And that's where the biggest challenge we have. For example I can see the dam is coming, I need to get my losses to down to below 16%, you get me. I have 77% of households that require power, meanwhile the network, these are depreciable assets, every year that goes the network requires renewal. Actually you can close yourself and dont invest and say I am controlling price. Guess what, your service provision willl deteriorate, your losses will go up, you will not reach the masses and you will increase your cost because if you cannot evacuate the new dams that are coming, someone must pay either through the tariff or through taxes, you get me? So, price may be an artificial thing but what most countries have done is to say lets take the pain now because price is factor of two things, cost and volumes. If you hold the costs that are going to drive for you the volumes at a higher rate, you come to grinding halt. It's like driving a car and don't service, don't service, don't service, and don't replace parts one time you will come to the grinding halt then you will say what the hell did we do? Look at Eskom, its facing the same challenges, they put a cup on their price, they did not invest now demand has outgrown supply, you get it? There is load shedding there is alot of.....
22	26:54.2 - 27:07.6	Moses: There times when you feel that, again on the contractual and regulation, that there is too much control coming from the public sector partners?
23	27:07.6 - 28:01.1	**Celestino**: I can tell you there is too much control, for me can say yeah control is necessary because the regulatory authorities are working for the interest of the public for example the regulator will want quality, then control the price and set the operational framework you are in. But also what we have seen is sometimes, if look at the telecom sector, their control mechanism actually encourages growth and I am not surprised that we have more than 23million phones, our access rates are more than 50% of the population of Uganda. We have seen them innovate from voice to data, to mobile money to what to what. Why? because the regulatory framework is encouraging, is enabling them to fly. But if you have a regulatory framework that is curving you in then you will never get out of the egg shell.
24	28:01.1 - 28:11.2	How does that translate with, probably, implication with longevity? You have a 20 year concession; you have seven years to go.
25	28:11.2 - 29:37.5	**Celestino:** Yeah, but also we have to realize that times are changing, where as in the early 90s and early 2000s, I can live without electricity, actually I don't need it. People then did not need it but what kind of generation are you dealing with now? They have a phone, they have a computer, those things need to be charged and they need therefore energy. Our literacy numbers are more than 70%, you can just confirm the numbers from UBOS, the more literate people are the more they want a good life. Our GDP percapita is increasing its close to 700 dollars per person so it means people want a better life and to get them a better life, you cant underscore the importance of electricity. For me what I see overall is yes we need to get the prices down, but we must find intelligent tools to get this. I will give you and example, instead of amortizing my assets over 10 years what if I amortized them over 20years? What if we shocked the system, shock the system now with capital investments then the resulting volume growth will deal with the price.
26	29:37.5 - 30:00.7	Moses: What implication would that have, because I am also looking at the overriding control measure, we have a 20 year concession. As private sector that is a critical issue on making a decision on investment. You are not going to borrow and tell people that you have 7 years and not sure if they will renew. Does that have implications on how you operating right now?
27	30:00.7 - 31:39.0	Celestino: Ofcourse ofcourse, its like going for a mortgage in a bank. If you're going for mortgage in back or any capital provider, first of all you assess where you are now, what's the tenure of your mortgage and how likely are you that you will settle the mortgage? They factor all those in and that determines the tenure in which your financing will be provided whether its equity or debt. So the shorter the period the period of your contract the more likely it is that you will access short term money on longterm money. The challenge is if you have short term money to invest in long-term assets there is a total

		mismatch it has financial implications it doesn't add up. Our view is these concessions typically since we are licensed you can control the operations of the company through a licensing regime with an open ended contract such that when the license is not complied with then you deal with the operator. Having a fixed contract is not in the interest of the public. For me my view is to have a minimum of 15 year horizon so that every like 5 years you can rebase, every time you are left with 10 years you asses and add another 5, you get it? You keep rebasing with a 15 year horizon. That gives certainty that gives the long-term view that encourages long term investments. Otherwise if you have a short term nature investors might decide to take short term view of their contract and electricity assets are long term investments are long term assets so you will have to match to the two.
28	31:39.0 - 31:45.9	**Moses:** In your boardroom here, in what ways do you feel that is impacting on your decisions?
29	31:45.9 - 31:50.3	**Celestino:** No, to be honest if you look back in 2013
30	31:50.3 - 33:04.8	we mobilized more than 200million dollars, we mobilized actually more 190million dollars of capital, why? Because we still over 12 years to go and this is 10 years money. If you have 7 years can you access 10 year money, no! The maximum you can access is 5 years money, can you use 5 year money for 15 year assets, no you can't, it clogs the tariff. It becomes cyclic if you want to unclog the tariff invest long-term spread your capital over long term. My advice is having learnt, this was the first among the others in terms of clarity in terms of PPPs having learnt now my view would be a) give open licenses and control based on licenses or b) every 10 years remaining rebase. The existing concession requires that we negotiate whether we remain or not 3 years to the end. That is too late, I can assure you thats too late. So this thing should be happening 10 years before and either add another 10 or 5 so you keep 10 to 15 year horizon that encourages long-term money coming into the company.
31	33:04.8 - 34:28.2	There are concerns of 'lock in' if UMEME is allowed to invest as it deems fit. What do you make of this?
32	34:28.2 - 36:08.7	**Celestino**: Yeah but then you are not working in the interest now, you see the interest of the citizen of Uganda. I will tell you this, I am a Ugandan I see these things. Should you be, a government is a government we are here providing a service, our time will come and it will go and future generations will ask of us, what did we do? Can we imagine if the same scenario is done, oh we cannot privatize UTCL because you know, would people be accessing telephones. What's half a billion dollars to government of 250 billions dollars of GDP, you get it? You actually ask who UMEME is. UMEME are pension funds, long-term pension funds, 23% NSSF, 35% owned by Ugandans, 55% owned by East Africans and 5 owned by Africans and 15% comes from the rest of the world. The question is, for example if NSSF is in this thing, is NSSF about to go away? OK if you say UMEME go, who is UMEME? (laughs). You see, do you close your eyes on growth because you are worried of UMEME investments? And me a look at that as short termism and it will crash us.
33	36:08.7 - 36:15.2	**Moses**: This is a policy issue, do you feel there is capacity to comprehend this?
34	36:15.2 - 38:49.6	Depends, but what we know is that, and you ably brought up, PPPs are lagging in Uganda. Infact UMEME framework was put up even before the PPP law was put in place. PPP law came in 2015 and I think they have not even tested it on any instrument but in terms of substance it was actually there. What do I see,I see the roads authority going that direction, express highway, Jinja express highway, the toll system. We see it in the telecom although its not direct, its there, its evident, concessions are there. Actually UMEME is being studied by other countries, Cameroon, Rwanda, Ghana, Nigeria, all these guys have come here, Liberia, Malawi, Zambia and they are saying this thing has worked can we replicate the same. So if I was in the shoes of the regulator the first question to ask would be in whose interest am I working? The citizen of Uganda, in whose interest does the government work in? The citizens of Uganda, irrespective of the political dynamics. For example in UK the utility regulators there, OFGEM, whether it's May, whether its Cameron, John Major, Margret Thatcher, those will come they will leave. You change from labour to conservative, conservative to labour however the citizen will remain. Whether its a republican in the US or a democrat in the US, Trump, Obama, Clinton, Bush the regulators for the Utility will remain the same. Why? they are working in the same interest of the public. And that's how would comprehend it. That if I am working in the interest of the public, someone else will be working in the interest of the public in water, telephones, others in others services and others in roads, we have the same obligations. Therefore I will take along term view because this is along term asset

		that can unlock alot o economic development and encourage investment.
35	38:49.6 - 39:47.5	I think really you have addressed me. Probably on the last bit on the interactions with on one end you have the regulator and on the other you have so many other goverment departments. Is there a cordinating structure to avoid unsychronised discussions?
36	39:47.5 - 41:37.3	**Celestino:** I think we have, what we did was we moved towards integrated sector planning. So previously we would run our investment without transmission so what we said no no lets sit on the same table. So what we there is regulator, UEDCL, Transmission, there is REA here, there is Finance, there is energy there. Okay we need to do this project, why is it important because it will connect transmission from here to there. If we do not connect what will happen? Therefore transmission asset will remain idle and you will pay for it and we cannot serve these customers. Transmission do you have the money to do it, no. UEDCL do you have the money, Government do you have the money, no no . OK fine UMEME do it. So we have seen through that collaboration most of the things are being done and there is total transparency on who is doing what. Also there is a coordination committee at the ministry of energy which brings in the policy guys and also we have seen that help to unclogs things to build a relationship between us (UMEME), REA, Transmission, Regulation, ERA, UEDCL and even development partners. For example they would come in put money in REA, REA would not execute fast and yet we control 97% of the market so we say can we help you, we can help you and we have helped REA to absorb a lot of its money. Because I go there and tell them look we have the same objective to serve the customer with reliable, safe and affordable power, that it. All I need is getting connected I don’t care who connects him or whose money is used to connect that customer let him connect as long as he can pay for his bills, that it. Same objective people people people of Uganda. And we have seen when we work in the interest of the people and the same signals are sending here are the same signals that are picked by our colleagues in the sector it helps and brings alot of clarity.
37	41:37.3 - 41:45.0	Moses: Then finally on the dominant issues of disagreement. If you could just summarize for me.
38	41:45.0 - 44:08.8	**Celestino:** I think when you look at, I look at it from many things, you talked about the capacity. I think what PPPs bring on board is even capacity. If you look previously there was alot of expatriate capacity that came into thid counrty to do distriabution. There were alot of managers. Actually now the company is more managed locally. We have now not more than 10 expatriates out of 1500 employees. People know what to do, they are running the show, I can sit here, go home and rest I know if power goes off I know someone will take action because they know why they are doing it, its impact on the customer and on our operations. So that capacity .... But also from a technical perspective government needs to build capacity such that they can know it from a risk allocation, or fair returns to the operator, realizing that the private operator is delivering -- for example if reduce losses 1% is 4 million dollars, reducing from 38% to 17% that 20%. If losses are not reduced 80million dollars of potential turnover would have been lost in the sector and if there is that hole in the sector, a) either you get subsidy from government to fill it, b) you increase prices to fill that hole. So people dont see that. You are working day and night to reduce this and the payment is your internal investment, thats all. which is exposed to all these risks so some people will say, which our most important point of disagreement because the sector was so bloomed at the time the reforms were done, the markets had collapsed by then in the early 2000s, Enrons, the WorldCom’s, the US markets where on steroids, AIG, you get it. Libor was in excess of 5% by then so they put in a fixed rate of return for the investment. I want this return because of the risks I am facing and I will deliver for you XY. So you ask yourself have we delivered xyz, yes. So you ask have you delivered XYZ, yes. So why can’t you give me my return? It’s like investing and building a beautiful house in a difficult area and after completing wow that is a beautiful house and everyone wants it now. Hey, I bulIt it I took on the risks, I put in my money and therefore I need my rewards, I need my return.
39	44:08.8 - 45:50.2	Speaking to other stakeholders, there appears to be discomfort particularly on the negotiated rate of return 20%. The thinking is that it should have been varied with the knowledge that the risk at the time would not be permanent. What is your take on that?

40	45:50.2 - 48:42.6	On that I think the other question if you analyse our financials, do we actually get 20% return? Just get your PAT divide by the total asset base or investments, we don't. Actually average is 12%, actually we don't earn it. We dont earn 20%. How do you earn 20% when some of your asset investments on which you are supposed to earn are not included in the tariff? So we see these things but again you look back and say what was the risk profile at the time. The concession arrangement requires alot of guarantees from MIDA, IBRD, and from the world bank to make this things work. For Bujagali deal to be concluded it required the World Bank, IFC, African Development Bank investment to cover the Agakhan and the CDglobal (part of blackrock). But when people start now looking at Bujagali, and Bujagali saved us from thermal that was being generated at about 40UScents to now of about 12 cents in Bujagali. But when someone looks at 12cents they forget the amount of load shading we were going through in 2012. Actually if you look at the statistics, I should have brought you the investment charts; you will see that when Bujagali was commissioned actually there was a step change in electricity demand. So people forget that. They forget that when UMEME took over 20% of the bills where never paid, 40% of the consumers never been billed, actually then the distribution efficiency then was 50%. For every 100 units they were buying from the transmission company on 50% would turn into cash. Now 83% turn into cash and I am not surprised that's why this sector is self-sufficient, the more efficient you are the more financially viable you become. That's why small generators are knocking. If you ask the regulator, many small generators are knocking they want to generate, why? a) they know the cash flow is certain, b) they are not depending on government
41	48:42.6 - 48:56.3	Moses: How are you going to reconcile the over 100millions dollars of reconciled investments?
42	48:56.3 - 50:19.3	**Celestino:** No, investments are continuous process. You know it becomes a risk profile to the, just you realize that when you are making those decisions (regular disallowing the investments) you are increasing the risk profile to the sector but I am confident we will resolve it. I know they are under pressure from the pricing perspective but we will continue to engage and reconcile. But what that does is that it increases the risk profile for the sector and it makes it not attractive. People look and say. And I want to look at it also from the opposite side that this thing is much but what if it was not there where would we be? What if the investments were not made where would losses be, where would the reliability be? where would the customer numbers be? So by doing that you make the investee take an extremely cautious approach which will deter the free development and growth of the sector
43	50:19.3 - 50:48.0	Moses: 20% of your investment not being recognised is huge, where is the gap? Are the guidelines there to define these?
44	50:48.0 - 55:46.9	**Celestino**: Actually if you ask that, the guidelines are there, the contract is very clear, in terms of what makes capex. For example, oh financing costs will not be part of, if you read the license its very clear, capex includes financing costs during construction. If you go to any capital project world over, I can close my eyes and hide, they will tell you that, even IFRC accounting standards will say that any financing cost you incur during the construction of an asset forms part of the valuation of the asset. Any resources you deploy directly to the project, dedicated to the project forms part of the capital investment. Any relevant overheads that are attributable to the project form part of your capital investment. I have never seen in the world were you you capital investment equals to the equipment cost, Jesus Christ! The valuation of a meter is equivalent to capital cost, what about the import duties that are not recoverable? what about the financing cost, what about the human cost of putting the meter up? What about the transport cost of putting the meter up? So for me sometimes I laugh because some of those things are just misinterpretation all I do is exercise my right I go for interpretation and straight away the number will be in. Its just an interpretation issue so they think they are disallowing those investments but its just a matter of interpretation. Its like the tax law saying this then you say that then you say okay what does accounting standard say, what does normal practice say. If someone rules that this is it then straight away. I know its temporary putting the head in the sand but its a matter time. But what becomes more important is people to respect, total respect of contracts really and one lesson that would be important for PPPs to succeed is any investor that brings in money brings it on the back of the contract and on that contract is trust that either party will act in the best interest of the parties to deliver on mutually agreed contractual obligations. But when you start short changing one party

		changing things and interpreting it in your own way you create risk, that risk actually increases the expected rate of return because return goes with risk. That's why I can choose to invest in treasury bills because I know the risk is low I will get my money back. But if I am investing in sector where I am exposed to losses, which I have as a target, then I beg you to approve then you don't approve, or when I put in my money I don't get it back that increases the risk therefore I have to increase my risk premium. And those things play in. If you look at the shareholders of UMEME, you are talking of top notch companies, with total balance sheets of over a trillion dollars under management. So when you look here we still FDIs we still grow using internal resources we need FDI to come and help us. So if you are that investor you saying oh that country they can interpret this thing then guess what money is shy from uncertainty, capital does not like uncertainty so it moves where there is certainty. And for me for PPPs to succeed especially infrastructure PPPs certainty is fundamental and I guess even the operator they will get for the road or whatever will want unlimited guarantees and I believe World Bank will come in and piggy bank and under write those guarantees. So that's the cost of one regulator's decision against the whole country because people will look and say how are other PPPs being treated? So they have control on this control on that interms of risk allocation I look at that as risk therefore. So, its important for PPPs for contracts to be respected.

Appendix 9: List of Important Empirical Documents

1. UMEME CONCESSION AGREEMENT
2. POWER SUPPLY AGREEMENT BETWEEN UETCL AND UMEME
3. GOU_Umeme Support Agreement
4. 2nd Amendment to GOU_Umeme Support Agreement
5. 3rd Amendment to GOU_Umeme Support Agreement
6. 4th Amendment to GOU_Umeme Support Agreement
7. Modification_of_License_No.046_for_the_supply_of_electricity
8. Licence_for_Supply_of__Electricity_Amendment_Number_Three_1st_March_20121
9. Licence_Supply_of_Electricity_Amendment_one_Dec_20061
10. Licence_Supply_of_Electricity_Amendment_Two_Feb_20122
11. Umeme_Licence_Distr__Elec__No.047_2005
12. Umeme_Sup__Electricity_No._048__2005
13. Letter relating to Amendment No 4
14. Public Enterprises Reform and Divesture Act 1993
15. Electricity Act 1999
16. Public Private Partnership Act 2015
17. ERA Presentation to the Media 2018
18. The Electricity (Application for Permit, License and Tariff Review) Regulations, 2007
19. Power Crisis brief-2
20. Power sector restructuring and Privatisation
21. Report on Electricity Tariff Reduction 2009 (2)-1
22. Briefing for Interim Tariff committee - ED PU

Appendix 10: Map of Uganda and Geographical Scope of the Case Study Project